

Suit No:613012/16

Sunny Johar v/s Jagdish Verma & anr

26.07.2018

4 PM.

Present: None.

Two applications have been moved by plaintiff. One seeking condonation of delay in moving application under Order 22 Rule 4, CPC and another application seeking impleadment of legal heirs of plaintiff no.12.

Plaintiff has expired on 01.11.2013 and application seeking impleading of legal heirs moved on 09.03.17. Defendant has argued that no justified ground has been furnished for delay in filing application and all the contentions made in the application are denied by defendant.

It is stated on behalf of applicant that original suit was filed before the Hon'ble High Court where some other counsel was pursuing the matter. Thereafter, suit was transfer to the District courts. The present counsel was engaged in Dec, 2016. It was only when present counsel was discussing the matter with plaintiff no.1, he was informed that plaintiff no.12 had already expired on 01.11.13. It is stated that all the plaintiffs are residing at different states. Immediately, present counsel gathered details about legal heirs and filed application impleading legal heirs on 09.03.16. The present suit is filed seeking possession, declaration and cancellation of Sale Deed.

Plaintiff was not aware about the necessity of informing about the court regarding death of plaintiff no.12. The present application has been moved at earliest after said fact came to the knowledge of present counsel for plaintiffs.

Parties shall not suffer merely for procedural irregularities. . As per case of plaintiff, all the plaintiffs are legal heirs of Smt. Gurdevi. Hence, right to sue survives against remaining plaintiffs. Therefore, in view of the above discussion,

both applications are allowed.

Delay in filing the application under Order 22 Rule 2, CPC is condoned and application under Order 22 Rule 2, CPC is allowed. Amended memo of parties filed along with application is taken on record.

Be listed for PE on 06.01.2019.

Sugandha Aggarwal
ADJ/West/Delhi
26.07.2018