

Laxmi Devi vs Ravi Shankar

RCA: 61237/2016

29.08.2019

Present: Counsel for LR's of deceased appellant no.1.
Counsel for appellant no.2.
Counsel for respondent.

1. Today, application u/o 22 rule 3 CPC filed by the LR's of appellant no.1 seeking their impleadment in the appeal in place of deceased appellant no.1.

2. It is stated in the application that appellant no.1 has expired on 07.02.2019, leaving behind three Lrs i.e. one son and two daughters, as mentioned in the application. Right to sue is stated to be survived in favour of Lrs of deceased appellant no.1 and against the respondent.

3. Ld.counsel for appellant no.2 submits that he does not want to file reply to the this application and has no objection, if the application is allowed. Ld.counsel for respondent submits that he also does not want to file reply to the said application but he submits that admittedly, appellant no.1 has expired on 07.02.2019, but this application has been moved belatedly i.e. today, which is beyond the period of limitation as envisaged u/o 22 rule 3 CPC.

4. To this, counsel for Lrs of appellant no.1 submits that there is one connected appeal bearing RCA no.61062/2016 titled as "**Ravi Shankar vs Delhi Urban Shelter Improvement Board and ors**", in which also appellant no.1 Laxmi Devi was party and her Lrs came to know about the pendency of this appeal in March-2019, on receiving the notice of application u/o 22 rule 4 CPC, filed by respondent herein in the said connected appeal.

5. It is matter of record and admitted also that two connected appeals i.e. present appeal and RCA no. 61062/2016, between the same parties are

pending. The appellant herein(Laxmi Devi) is respondent no.2 in the connected appeal bearing no. 61062/2016. Respondent Ravi Shankar herein is the appellant in the said connected appeal, in which he moved application u/o 22 rule 4 CPC within the period of limitation seeking impleadement of Lrs of Laxmi Devi. His said application has been allowed vide separate order passed today in the said RCA. Considering that the parties, facts and issues involved in both the appeals are same, therefore, no purpose shall be served by passing any adverse order in this appeal. Hence, the present application is hereby allowed, impleading the Lrs of appellant no.1 in place of her. Application is disposed off. Amended memo of parties be filed.

Put up for arguments on appeal, on 11.10.2019.

(Charu Aggarwal)
ADJ-03/West Distt./THC/Delhi
29.08.2019