

RCA: 61237/2016
Laxmi Devi vs Ravi Shankar & ors.

THROUGH WEBEX VIDEO CONFERENCING

25.09.2020

File has been taken up today as it could not be earlier taken up due to lock-down on account of Covid-19

Present : Shri Anand Srivastava, Ld.counsel for the appellant present in person physically.
 Shri M K Tripathi, husband of appellant no. 2 Sanjana Tripathi in person.
 Shri Rakesh Srivastava, Ld.counsel for the respondents. (Through VC).
 Shri Virender Kumar, Ld.counsel for DUSIB (Through VC).

1. Matter is listed today for arguments on application u/o 1 rule 10 CPC filed by Shri M K Tripathi, for impleading DUSIB in the present appeal.

2. Submissions on the application heard.

Perusal of the record shows that the said application has been filed by Shri M K Tripathi, husband of appellant no.2/Sanjana Tripathi in his own personal capacity without any authority from any of the appellant. The appeal has been filed by Sanjana Tripathi on her own and not through any Power of attorney. It is submitted that SPA was filed on behalf

of Sanjana Tripathi authorizing Shri M K Tripathi, before the Ld. Trial Court. However, this fact is disputed by the counsel for the respondent stating that Page no. 9 of the impugned judgment in 3rd para, clearly records that Shri M K Tripathi who was examined as DW1 before the Ld. Trial Court did not have any authority from appellant no.2 herein even before the Ld. Trial Court.

3. On behalf of DUSIB it is submitted that DUSIB was never a party in the original suit and no reason has been given as to why they should be made a party in the appeal. In case the appellant herein had any grievance or wanted any relief from DUSIB, they should have moved appropriate application for impleading DUSIB before the Ld. Trial court prior to the passing of the judgment.

4. I have heard the submissions and carefully perused the record.

5. Since the application under consideration has been filed by M K Tripathi, who is an alien to the original suit as well as to the present appeal having no authority from any of the appellant, the application in itself is not maintainable. Moreover, no reason has been given in the application under consideration as to why DUSIB was not impleaded as a party in the original suit and why DUSIB is required to be impleaded as a party in the present appeal. In these circumstances, I find no merit in the application under disposal. Application u/o 1 rule 10 CPC filed by M K Tripathi, for impleading DUSIB as a necessary party in the present appeal is accordingly dismissed.

6. Now, the matter be listed for arguments on the appeal, on 28.10.2020 at 11.30 a.m. through VC.

7. Perusal of the record shows that TCR has not been attached by the Ahalmad. Ahalmad is directed to ensure that TCR is summoned before the next date and attached with the appeal.

(Shivali Sharma)
ADJ-03/West/Delhi.
25.09.2020