

Gurmeet Kaur vs National Highway Authority

CNR No. PBAS020026542022

CS/1805/2022

Present: Sh. Talwinder Singh, Counsel for plaintiff
Sh. Narinder Pal Singh, Counsel for defendant no.1
Sh. Mandeep Singh, Counsel for defendants no. 4 to 10
Defendants no. 2 and 3 exparte

1. Heard on application under Order XXII Rule 4 read with section 151 CPC filed by Id. Counsel for defendant for impleading Lrs of deceased defendant Darshan Singh by mentioning therein that Darshan Singh had expired on 05.07.2023 and he is survived by his son Gurdyal Singh who is the only legal heir of Darshan Singh and after his death right to sue has been accrued in favour of his legal heirs. Lastly prayer is made for allowing the present application and Gurdyal Singh may kindly be allowed to be impleaded as defendant in place of Darshan Singh.

2. Upon notice reply to the said application has been filed on behalf of plaintiffs and defendant no.1. It is averred in the reply submitted on behalf of respondent/defendant no. 1 document mentioned in the para is denied for want of admissibility and proof and it is averred in the application submitted on behalf of respondent/plaintiff that the applicant has concealed the facts and has also not disclosed all the legal heirs of deceased in the present application. Lastly dismissal of present application was prayed for

3. Perusal of record reveals that the present suit for permanent injunction has been filed by the plaintiff. Undoubtedly, relief of permanent injunction is in itself a right in personam, however, present suit has been filed by plaintiff wherein defendant no. 2 is sought to be permanently restrained from making the payment with respect to the land in favour of defendants no. 4 to 10. In such a state of circumstances irrespective to the fact that the present suit is simpliciter suit of permanent injunction, this court is of the opinion that right to suit survive in favour of the plaintiff against Lrs of

deceased/defendant no.7 Darshan Singh. It is further to be appreciated that plaintiffs although oppose the present application so filed by applicant to be impleaded as one of his Lrs but has not denied that applicant is LR of said Darshan Singh, therefore, application in hand is allowed subject to condition that applicant will place on record any document from which death of Darshan Singh can be reasonably ascertained by the court.

4. However, it is made clear that the opinion expressed herein above for disposal of the present application shall have no effect on the merits of the main suit. Matter now adjourned to 03.07.2024 for filing written statement as well as for placing on record documents.

Date of Order:14.05.2024
Barkha, Stenographer-II

(Parminder Kaur Bains)
Addl.Civil Judge(SD)/ASR
(UID No.PB0346)