

27.01.2023

Present: Sh.Alok Sharma, Ld. Counsel for the appellant
along with Sh. Anil Kumar Moria, SPA of all the
proposed LR's of deceased appellant.
Sh. K.C.Chopra, ld. Counsel for LR's of deceased
respondent no.1.
Sh. K.K.Sharma, ld. Counsel for respondent no.3.
None for respondents no.2 and 2 (a) to 2 (d).

Perusal of record reveals that as per the impugned judgment dated 25.01.2017, there were seven defendants in the suit, however, in the memo of appeal, the defendants no.3, 4, 5 and 6 have been impleaded as respondents no.2(a) to 2(d) whereas defendant no.7 has been impleaded as respondent no.3.

A perusal of record reveals that a submission has been recorded in Order dated 23.11.2021 that respondent no.2 has already expired and time was sought for impleadment of his Lrs. It is submitted by Ld. Counsel for appellant that respondent no.2 had already expired during pendency of the suit and his Lrs were impleaded as defendants no.3 to 6. The aforesaid submission seems to be contrary to record, in as much as, notice of appeal was duly served upon respondent no.2 on 27.07.2018 through one Smt. Sunita who had claimed herself to be the wife of respondent no.2 whose name does not find mention in the list of Lrs of deceased respondent no.2 if the respondents no.2 (a) to 2(d) are taken to be the Lrs of respondent no.2 as claimed by Ld. Counsel for appellant. Ld. Counsel for appellant accordingly

seeks time for clarification on the aforesaid aspect.

Reply to the application under order 22 Rule 3 r/w Section 151 CPC has been filed on behalf of Lrs of deceased respondent no.1 along with certain case laws. Copy of reply supplied to Ld.Counsel for appellant.

Submissions on the applications of proposed LR of deceased appellant under Order 22 Rule 10 CPC filed on 14.02.2022 and under Order 22 Rule 3 r/w Section 151 CPC filed on 24.02.2022 heard in part.

It is submitted by Ld. Counsel for the applicant Smt. Bhagwati Devi in application under Order 22 Rule 10 CPC that he has instructions from Smt. Bhagwati Devi not to press her application under Order 22 Rule 10 CPC and the court should consider the application under Order 22 Rule 3 CPC filed by all the Lrs of deceased appellant including Smt. Bhagwati Devi through their attorney.

In view of the aforesaid submissions, the application of Smt. Bhagwati Devi under order 22 Rule 10 CPC is hereby disposed of as withdrawn.

Put up for clarifications on the status of respondent no.2 and for further arguments on application of proposed LR of deceased appellant under Order 22 Rule 3 CPC on 31.03.2023.

(ARUN KUMAR GARG)
Addl. Distt. Judge-05,
Central, THC, Delhi(ss)
27.01.2023