



In the Court of Additional District Judge, Court No. 3, Sultanpur.

Civil Appeal No. 37 of 2018

CNR No. UPST01-002279-2018

Laxmikant Srivastava Versus Virendra Kumar Sinha etc.

21.09.2022

Put up. Heard arguments of learned counsels of both the parties on substitution application 26A1 and its objection 29C2 and perused the file.

Appellant Laxmikant Srivastav filed said substitution application 26A1 under Order 22 Rule 4 and 11 of the Civil Procedure Code, supported with affidavit 27C2, and stating therein that respondent no. 3 Neelam Sinha had died on 07.04.2022. She had no kids and her legal heirs have already been parties in the suit as respondent no. 1 and 4 to 7. Accordingly, prayed to incorporate the necessary amendments in his memo of appeal. Per-contra; respondent Virendra Kumar etc. filed objection against the said application paper no. 29C2, stating therein that said application is filed quite delayed, despite the direction of the Hon'ble court and application is misconceived and based upon the wrong fact, thus, said application is liable to be rejected.

From the perusal of file, it is evident that said appeal has been filed against the impugned judgment and decree dated 02.04.2018 passed by the Civil Judge (SD)/FTC, Sultanpur in original suit no. 380 of 2005 titled as Jagdamba Rani Sinha etc. versus Katith Harinath etc. During the course of appeal, appellant Neelam Sinha had died on 07.04.2022 as per application 26A1, her legal heirs have already been parties in the suit as respondent no. 1 and 4 to 7. Accordingly, prayed to incorporate the necessary amendments in his memo of appeal. Looking at the nature of appeal, prayed substitution is certainly required as right to sue on behalf of respondent no. 3 Neelam Sinha survives in favour of her legal representatives. Said substitution application is filed within time. Thus, in the interest of justice, substitution application 26A1 deserves to be allowed.

Order

Application 26A1 is hereby allowed. Accordingly, appellant is directed to incorporate necessary amendments in memo of appeal as per rule. File is to be put up for argument on 07.10.2022.

Additional District Judge, Court No. 3,
Sultanpur
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