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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(OS) 191/2020, I.A. 6086/2020(O-XXXIX R-1 & 2 of CPC), I.A. 9135/2020(O-VII R-11(d) of CPC) & I.A. 9136/2020(O-VII R-11(d) of CPC)

SHARAD KUMAR RASTOGI

..... Plaintiff

Through: None.

versus

KAUSHAL RASTOGI & ORS.

..... Defendants

Through: Mr. D. Verma, Advocate for D-1 and D-2.

Mr. Shivam Goel, Mr. Karan Jain and Mrs. Ramya S. Goel, Advocates, for Applicants in I.A 11757/2021 and I.A 16599/2021.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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11.04.2022

I.A. No. 11753/2021(O-XXII R-9(2) of CPC) & I.A. No. 16600/2021 (for condonation of delay of 134 days in filing O-XXII R-3 of CPC)

1. IA No.11753/2021 has been filed on behalf of the applicant/defendant no.1 for setting aside the abatement of the suit. IA No.16600/2021 has been filed for condonation of delay of 134 days in filing IA No.11753/2021.

2. In view of the fact that the limitation period has been excluded in terms of the order dated 23rd September, 2021 passed by the Supreme Court in *Suo Moto Writ Petition (C) No. 3/2020*, the suit shall not stand abated.

3. Hence, both the present applications are disposed of.

I.A. 11757/2021 (O- XXII R-3(1) of CPC) & I.A. 16599/2021 (O-XXII R-3 of CPC)

4. I.A. No. 11757/2021 is an application filed on behalf of the



applicant/defendant no. 1, being the spouse of the original plaintiff, seeking transposition as the plaintiff, since the original plaintiff, Sharad Kumar Rastogi, has passed away. This is premised on the registered Will date 6th December, 1999 executed by the deceased plaintiff.

5. I.A. No. 16599/2021 has been filed on behalf of the applicant, Ms. Karishma Rastogi, who is the younger daughter of the deceased plaintiff, for substitution as a legal representative of the deceased plaintiff. It is stated in the application that the defendants no. 1 and 3 are the other legal representatives of the deceased plaintiff.

6. In view of the two competing claims in the aforesaid two applications, it is deemed appropriate that an enquiry is conducted by the Joint Registrar with regard to the legal representatives of the deceased plaintiff in terms of Rule 3 (37) of Chapter II of the Delhi High Court (Original Side) Rules, 2018, so as to determine the legal representative of the deceased plaintiff.

7. List the matter before the Joint Registrar on 12th May, 2022. After completion of the enquiry, the Enquiry Report be placed before this Court for consideration.

8. Interim orders to continue till the next date of hearing.

AMIT BANSAL, J

APRIL 11, 2022

Sakshi R.