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

+ **CM(M) 2482/2024**

SANJAY FLOUR MILLS & ANR.

..... Petitioners

Through: Mr. Jagjit Singh and Mr. Preet Singh,
Advs.

versus

RAMESH KUMAR

..... Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

% **10.05.2024**

CM APPL. 25984/2024—Exp.

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CM(M) 2482/2024

3. The present petition under Article 227 of the Constitution of India has been filed impugning the order dated 03.01.2024 passed by the learned ADJ-05, East District, Karkardooma Court, New Delhi (hereinafter referred to as 'Trial Court') in CS No. 2168/16 titled as "*Ramesh Kumar vs. Sanjay Floor Mills Through AR*" whereby the application moved on behalf of the respondent under Order XXII Rule 4 read with Section 151 of the Code of Civil Procedure, 1908 was allowed. The petitioners herein are the defendants before the learned Trial Court.



4. Learned counsel for the petitioners submits that respondent herein had filed a suit for recovery of Rs. 41,00,000/- in the year 2016. The defendant no. 2 in the suit expired on 22.11.2020 and the 90 days for bringing on record the legal heirs of deceased defendant no. 2 were over on 10.02.2021, however, the respondent had moved the application under Order XXII Rule 4 CPC to bring the legal heirs of deceased defendant no. 2 on record on 14.02.2022, which erroneously came to be allowed by the learned Trial Court vide order dated 03.01.2024 despite the application being hopelessly time barred.

5. Issue notice.

6. On taking steps by the petitioners, service be effected upon the respondent through all permissible modes including via approved courier service, returnable on 26.09.2024.

CM APPL. 25983/2024—stay

7. The present application has been moved under Section 151 of the CPC seeking stay of proceedings before the learned Trial Court.

8. The learned counsel presses for stay of the proceedings before the learned Trial Court till disposal of the present petition else, the present petition will become infructuous.

9. Proceedings before the learned Trial Court shall be subject to outcome of the present petition.

SHALINDER KAUR, J.

MAY 10, 2024/ss