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

+ **W.P.(C) 10967/2019**

VINOD KUMAR MALIK & ANRPetitioner

Through: Mr. Ashwini Kumar for Mr. Rajiv
Vig, Adv. for petitioners including
proposed LR of petitioner no. 1

versus

REGISTRAR COOPERATIVE SOCIETIES & ORSRespondents

Through: Ms. Aditi Saraswat, Advocate for
Mr. Jawahar Raja, ASC for R-1 & 3
Ms. Iti Sharma, Advocate for R-2
Mr. Bharat Bhushan for respondent
no. 4 in person
Mr. G. K. Bharti with Mr. Tanish
Khurana, Advocates for R-5

CORAM: SH. SANJAY KUMAR SHARMA, REGISTRAR
ORDER

% **08.04.2024**

Today's Court proceedings are conducted through physical/hybrid mode.

CM APPL. 43729/2023 (u/O 22 Rule 3 CPC)

This is an application under Order 22 Rule 3 CPC filed by the applicant Smt. Rekha Vinod Malik seeking her substitution as legal representative in place of petitioner no. 1 to the exclusion of three daughters namely, Suchita Narang, Seema Vinod Malik and Bharti Vinod Malik. The petitioner no. 1 is stated to have died on 06.05.2023. A copy of the death certificate has been annexed with the application. The details of legal heirs of deceased petitioner no. 1 are mentioned in para 5 of the application which includes his wife and three daughters, who are stated to be the only class-1 legal heirs.



The application is supported by two sets of affidavits by way of no objections of all the three daughters thereby relinquishing their right in the property in favour of their mother Smt. Rekha Vinod Malik. The first set of affidavits is dated 7th June, 2023. The application is also supported by other two affidavits filed by two daughters namely: Suchita Narang and Bharti Vinod Malik which are attested at their respective place of residence i.e. U.K and USA.

It is already submitted by counsel for respondent nos. 1 & 3 that they have no objection to the application being allowed. By way of its reply filed by respondent no. 2, it is submitted that respondent no. 2 has also no objection to the application being allowed.

The application is opposed by respondent no. 4 who is appearing in person and counsel for respondent no. 5. It is submitted by respondent nos. 4 & 5 that the first set of affidavit which was filed with the application is sworn at Maharashtra whereas two of the daughters are residing at USA and UK and the affidavits were attested without their appearance either physically or virtually, as there is no such endorsement on these affidavits. It is further submitted by respondent nos. 4 & 5 that the deponents were not duly identified at the time of attestation of affidavits.

As regards second set of affidavits filed by the two daughters, it is contended by respondent nos. 4 & 5 that these were filed without permission of the Court and these are time-bared.

To rebut this, the counsel for the petitioner/applicant submits that the affidavits initially filed with the application were duly got signed from the deponents and the deponents appeared through video conference before the notary at the time of attestation of affidavits. But, since the respondent



nos. 4 & 5 were disputing the affidavits filed earlier, therefore, fresh affidavits by way of no objection were filed in respect of two daughters i.e. Ms. Suchita Narang and Ms. Bharti Vinod Malik, which were got attested at their respective places of residences.

It is further submitted by counsel for the petitioners/applicants that he identifies the signature on both sets of affidavits filed by legal heirs/daughters and none of the signature is forged.

Counsel for the petitioner/applicant submits that he is representing the petitioners including legal heirs of deceased petitioner no. 1 and will be filing the vakalatnama on behalf of all the four legal heirs. Let him do so.

In view of the statement made by counsel for the petitioners/applicants that he identifies the signatures on the affidavits placed on record and the fact that he will be filing his vakalatnama on behalf of all the legal heirs, I allow this application. Further, it is not disputed that the applicants/legal heirs are not the legal heirs of deceased petitioner no. 1.

Accordingly, the legal heir as mentioned in the application namely Smt. Rekha Vinod Malik, the applicant herein is permitted to be brought on record in place of petitioner no. 1.

Amended memo of parties be filed during the course of the day.

Application stands disposed of.

W.P.(C) 10967/2019

List the matter before Hon'ble Court on 10.04.2024, the date already fixed, for further directions.

REGISTRAR

APRIL 8, 2024/PU