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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO 226/2024 & CM APPL. 40775-40776/2024**
SHEELA AND ORS.Appellants

Through: Mr. Mahetaba Asrar, Mr. Jitender Chaudhary, Mr. Anil Chaudhary and Mr. Gaurav Ambawat, Advocates
versus

NARENDER AHUJA AND ANR.Respondents
Through: Mr. Amit Biswas, Advocate along with R-1

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER
% **22.07.2024**
CM APPL. 40776/2024 (exemption)

Exemption allowed subject to all just exception.

FAO 226/2024 & CM APPL. 40775/2024

1. Appellants have taken exception to the impugned order dated 05.07.2024 whereby his application moved under Order IX Rule 13 CPC r/w Section 151 CPC has been dismissed.
2. According to the appellants, they were not even party to the original suit and had moved an application under Order I Rule 10 CPC seeking their impleadment.
3. Counter-claim was filed by one Mr. Prem Nath Batra.
4. It is also contended that Mr. Prem Nath Batra was also not party to the suit and he himself had also filed an application under Order I Rule 10 CPC for his impleadment.



5. During the pendency of the proceedings, Mr. Prem Nath Batra died and an application under Order XXII Rule 10 CPC was filed by Narender Ahuja/Respondent no. 1.
6. It is contended that without being impleaded as party, neither the counter-claim could have been registered nor it could have been permitted to be served.
7. In addition to the above, it is also contended that there was no due service upon the appellants. It is though admitted that they were appearing before the learned Trial Court as they had already moved an application seeking their impleadment.
8. Respondent no. 1 present in person with his counsel on advance notice.
9. Notice is accepted.
10. It is apprised that respondent no. 2 is proforma respondent and, therefore, there is no requirement of sending any process to him.
11. Let Trial Court Record in the digitized form be requisitioned. Both the sides would be at liberty to file short written synopsis.
12. List on 25.09.2024 for final arguments.
13. Learned Executing Court would not pass any coercive order against the appellants herein and would defer the execution proceedings to a date subsequent to the one given by this Court.

MANOJ JAIN, J

JULY 22, 2024/dr