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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 625/2010 & I.A. 10727/2018**
M/S YAHOO EXPORTS PVT LTD Plaintiff

Through: Appearance not given

versus

MANJIT KAUR & ORS Defendants
Through: None

CORAM:
SH. SANJAY JINDAL (DHJS), JOINT REGISTRAR
(JUDICIAL)

ORDER
% **27.10.2018**

I.A. No. 10727/2018 u/o XXII Rule 4 r/w 151 CPC filed on behalf of defendant nos. 2 and 4 for impleading the LR's of deceased defendant no.3

Arguments already heard.

I have carefully perused the record in light of submissions made before me.

By way of present application it is prayed that the defendant nos. 2 and 4 be impleaded as LR's of deceased defendant no.3 who is suspected to have been murdered while in judicial custody in case FIR No. 380/2016 PS. Ranjeet Nagar.

The application has been opposed on behalf of plaintiff and a reply has been filed taking certain preliminary objections. One of the objection is regarding the very authority of the person through whom the present CS(OS) 625/2010

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application is filed.

So far as the fact regarding that the death of defendant no.3 is concerned, the contents of the application are not specific in this regard but the plaintiff has not disputed the same and they have claimed in para 4 of the preliminary objections that it has been learnt that Sh. Anoop Singh Bagga (defendant no.3) has expired. Although, none of the parties have disclosed the date of death nor any death certificate has been produced.

A perusal of record shows that the application has been filed by one Mr. Vinod Kaushik who claims to be the special power of attorney holder of defendant no.4 Sh. Darshan Singh. One copy of said special power of Attorney has been placed on record only after objection was raised by learned counsel for the plaintiff. If the contents of said power of attorney dated 20.10.2016 are perused, it is found that the defendant no.4 has authorised the applicant only to appear on his behalf in court of law. The said SPA does not find mention of any special authority given to the applicant to represent the defendant no.4 in the present matter or to file any application or pleading on his behalf. A mere authority to appear on one's behalf does not include authority to represent and authority to file pleadings. The document is titled as special power of attorney but the same cannot be termed even a general power of attorney as its contents are very cryptic and lack necessary specifications.

In view of the above it can be said that the applicant does not hold authority to file an application like one in hand on behalf of the defendants or the defendant no.4.

The plaintiffs, on their own, have not taken any steps for bringing on

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record the LRs of defendant no.3, may be because the right to suit survives against the remaining defendants. Law shall take its own course in this regard.

In view of the fact that the present application has not been filed by an authorised person, the same is found to be not maintainable and the same is accordingly dismissed.

IA stands disposed of.

CS (OS) 625/2010 & I.A. No.2796/2018 u/s 151 CPC filed by defendant no.2

Now to come up for consideration on the above captioned IA and cross-examination of PW-2 on 12.12.2018.

**SANJAY JINDAL (DHJS)
JOINT REGISTRAR (JUDICIAL)**

OCTOBER 27, 2018/rr