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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **TEST.CAS. 2/2006**
BHARAT BHUSHAN GUPTA Petitioner
Through Mr. Irfan Ahmed, Adv.
versus
STATE ANDS ORS C+ Respondents
Through Mr. R. L. Kohli with Mr. Amitabh
Narayan, Adv. for objectors

CORAM:
ASHUTOSH KUMAR (DHJS), JOINT REGISTRAR
(JUDICIAL)

ORDER

% **26.04.2016**

IA No.2753/2016 under Order XXII Rule 4 r/w Section 151 CPC
moved on behalf of petitioner for impleading two LR's namely i)
Mrs. Sudha Gupta (wife) and ii) Mr. Deepak Gupta (son) of
deceased respondent no.3 Sh. Ashok Kumar Gupta

As per office note, aforesaid LR's of deceased respondent no.3 were served with notice of the application on 16.03.2016.

Learned counsel for respondent no.2, who is also representing the aforesaid LR's of respondent no.3, has no objection to the captioned IAs.

Learned counsel for petitioner has submitted that respondent no.4 has already given no objection to the petition and that respondent no.5 is not contesting the petition since long after service.

In the application it is mentioned that respondent no.3 has expired on 20.12.2015. Learned counsel for LR's of respondent no.3 has not disputed the fact of death of respondent no.3 but has stated that he had expired on 21.12.2015. He undertakes to file copy of death certificate with the registry within two weeks and shall supply

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copy of the same to learned counsel for petitioner. The captioned IA was moved on 24.02.2016 i.e. within the limitation.

Considering the facts and circumstances, the captioned IA is allowed and amended memo of parties (filed alongwith the IA) be placed in part – I of the file. IA is accordingly disposed of.

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Two of the witnesses of respondent no.2&3 whose affidavits of evidence have been filed, are present. First one OW1 Mr. Vinod Gupta has tendered his evidence by way of affidavit and his examination-in-chief has been recorded. His cross-examination is deferred for after lunch as it is already lunch time.

Called again after lunch.

Learned counsel for respondent no.2&3 has submitted that since cross-examination of this witness is yet to start, therefore, he may be permitted to ask one question to OW1. Strongly opposed by learned counsel for petitioner. Affidavit of evidence of OW1 was filed and it was open to the OW1 to mention any such fact in his affidavit. Already examination-in-chief of OW1 has been completed before lunch and cross-examination of OW1 was deferred for after lunch. Stage of re-examination is yet to reach. Hence no ground for allowing request of learned counsel for respondent no.2&3 is made out and accordingly the same is rejected. Accordingly OW1 Mr. Vinod Gupta is recalled for his cross-examination and partly cross-examined. His remaining cross-examination is deferred due to

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paucity of time as it is already 2.58 p.m. and evidence of two witnesses in CS(OS) 768/2006 is to be recorded, where Hon'ble Court has directed not to accommodate any of the parties.

Renotify the matter for remaining cross-examination of OW1, remaining evidence of witnesses of respondent no.2&3 and for evidence of Court witness FSL Expert Mr. Anurag Sharma on date already fixed i.e. on 27.04.2016 at 12.00 noon.

ASHUTOSH KUMAR (DHJS)
JOINT REGISTRAR (JUDICIAL)

APRIL 26, 2016/ab