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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 1471/2012**

VINITA SHARMA & ORS

..... Plaintiffs

Through: Mr. Mrinalini Sen Gupta, Ms.
Madhwi Aggarwal and Mr. Shantanu
Lakhotia, Advocates for plaintiff no.
1

versus

SANJAY SHARMA & ORS

..... Defendants

Through: Ms. Surekha Raman, Advocate for D-
5 (Through VC)

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

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19.12.2022

I.A. 21592/2022 (Modification/Clarification of order dated 3rd November, 2022)

1. The instant application under Section 151 of the Code of Civil Procedure, 1908 (hereinafter "CPC") has been filed on behalf of defendant no. 5 seeking the following reliefs:

"a) pass an order modifying/clarifying the order dated 03.11.2022 to the extent it records that there are no legal heirs of Defendant No.6 and suit abates qua Defendant No.6 due to non-filing of Application for substitution of legal heirs; and

b) pass such other and further order(s) as may be required by this Hon'ble Court in the facts and circumstances of the present case."

2. The defendant no. 5, by way of this application, submitted that due to an incorrect statement, the order dated 3rd November 2022 noted that defendant no. 6 has no legal heirs and it further noted as under:-



“3. No application has been filed for substitution of legal heirs of defendant No.6 viz-a-viz whom the suit stands abated.”

3. It is submitted that, however, the defendant no. 6 is survived by his wife and four children. Therefore, it is prayed that the order may be modified.

4. Learned counsel appearing on behalf of plaintiff no. 1 fairly conceded that the order dated 3rd November, 2022 may be modified to the extent that the defendant no. 6 has legal heirs as mentioned in the paragraph 5 of the instant application.

5. Learned counsel for the plaintiff no. 1 further submitted that she has filed an application for impleadment of the legal heirs of the defendant no. 6, on 18th December 2022, vide Diary No. 2072042/22 but the same has not come on record yet.

6. Since the applicant/defendant no. 5 has furnished the details of legal heirs of the defendant no. 6 and learned counsel for the plaintiff no. 1 has filed an application for impleadment of the said legal heirs, while submitting that she has no objection if the order dated 3rd November 2022 is modified to the extent that is sought by the instant application, this Court is inclined to allow the instant application and the relief sought therein.

7. In view of the above, the application stands allowed and the order dated 3rd November, 2022 is accordingly modified to extent as prayed for.

8. The application stands disposed of.

CHANDRA DHARI SINGH, J

DECEMBER 19, 2022/gs/ms

Click here to check corrigendum, if any