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

+ **CS(OS) 1895/2012**

MAYA SHANKER GUPTA

..... Plaintiff

Through: Mr. Siddharth Aggarwal, Advocate.

versus

SHAKUNTALA GUPTA & ORS.

..... Defendants

Through: Mr. Utkarsh Batra, Advocate for
D-1, 2, 3, 6 & 7.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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15.11.2022

I.A. 16789/2021 (U/O XXII Rule 4 r/w Section 151 of CPC, 1908)

1. The present application under Order XXII Rule 4 read with Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of the plaintiff seeking impleadment of the legal heirs of the defendant No. 1-Shakuntala Gupta.
2. It is submitted in the application that the defendant No. 1-Shakuntala Gupta has died on 07th February, 2021. The defendant No. 1-Shakuntala Gupta is survived by three sons, namely, Mr. Shriniwas Gupta, defendant No. 2, Mr. Hariniwas Gupta, defendant No. 3 and Mr. Mahavir Prasad Gupta, defendant No. 5 who had pre-deceased defendant No. 1 and had died on 26th June, 2018 and two daughters, namely, Ms. Geeta Goel, defendant No. 6 and Ms. Maya Aggarwal, defendant No. 7.
3. It is stated that the right to sue survives in favour of the plaintiff



against the aforementioned legal heirs of defendant No. 1-Shakuntala Gupta. Learned counsel on behalf of the plaintiff submits that the present application be allowed and the legal heirs of the defendant No. 1-Shakuntala Gupta may be substituted.

4. Reply has been filed on behalf of the legal heirs of the defendant No. 1-Shakuntala Gupta, wherein it is claimed that the defendant No. 1-Shakuntala Gupta had executed a Will in respect of her all properties in favour of her two sons, namely, Mr. Shriniwas Gupta, defendant No. 2 and Mr. Hariniwas Gupta, defendant No. 3 and one property in favour of Ms. Maya Aggarwal, defendant No. 7.

5. It is, therefore, stated that no other legal heirs have a right to the property to the defendant No. 1-Shakuntala Gupta only these three aforementioned legal heirs are entitled to be impleaded as a party.

6. **Submissions heard.**

7. The legal heirs of the deceased defendant No. 1-Shakuntala Gupta are already a party in the present Suit, who are also taken on record as the legal heirs of the defendant No. 1-Shakuntala Gupta.

8. Accordingly, the application is accordingly disposed of.

I.A. 13401/2018 (U/O XXII Rule 4 r/w Section 151 of CPC, 1908)

1. The present application under Order XXII Rule 4 read with Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of the plaintiff seeking impleadment of the legal heirs of the defendant No. 5, Mahavir Prasad Gupta.

2. It is submitted in the application that the defendant No. 5-Mahavir Prasad Gupta has expired on 26th June, 2018, his wife Ms. Nirmal Gupta had pre-deceased him on 08th December, 2012. The defendant No. 5-Mahavir



Prasad Gupta is survived by his two sons, namely, Mr. Nitin Gupta and Mr. Ashok Gupta. The right to sue survives in favour of the plaintiff against the two legal heirs who may be impleaded in place of the defendant No. 5-Mahavir Prasad Gupta.

3. A reply has been filed on behalf of the defendant Nos. 1, 2, 3, 6 and 7 who have admitted the demise of the defendant No. 5-Mahavir Prasad Gupta on 26th June, 2018. It is denied that he is survived by his two sons, namely, Mr. Nitin Gupta and Mr. Ashok Gupta. It is claimed that the defendant No. 5-Mahavir Prasad Gupta is survived by his wife Ms. Ritu Gupta and daughter, namely, Ms. Swati Gupta and two minor daughters, namely, Ms. Nikki Gupta and Ms. Rashi Gupta.

4. It is, therefore, submitted that the legal heirs whose names have been disclosed in the application are entitled to be impleaded in place of the defendant No. 5-Mahavir Prasad Gupta.

5. A separate reply has been filed on behalf of Mr. Nitin Gupta and Mr. Ashok Gupta who have asserted that they are the only legal heirs of the defendant No. 5-Mahavir Prasad Gupta who are entitled to be impleaded as a party to the present Suit.

6. During the course of arguments, learned counsel on behalf of Mr. Nitin Gupta and Mr. Ashok Gupta has submitted that now there is a compromise between the two sets of legal heirs and there is no objection if all are impleaded as legal heirs of the defendant No. 5-Mahavir Prasad Gupta.

7. **Submissions heard.**

8. In view of the submissions made, Mr. Nitin Gupta and Mr. Ashok Gupta along with daughter, namely, Ms. Swati Gupta and two minor



daughters, namely, Ms. Nikki Gupta and Ms. Rashi Gupta be impleaded as the legal heirs of defendant No. 5-Mahavir Prasad Gupta.

9. The application is disposed of.

10. Let amended memo of parties be filed by the plaintiff within four weeks.

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List before the Joint Registrar for recording of the plaintiff's evidence on 23rd January, 2023.

NEENA BANSAL KRISHNA, J

NOVEMBER 15, 2022

S.Sharma