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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RFA(OS) 51/2018, CM APPL. 29029/2018
& CM APPL. 6594-6596/2019
SANTOSH KUMAR JAIN Appellant
Through Mr. Ashok Gurnani, Advocate

versus

KIRAN JAIN & ORS Respondent
Through Mr. Rishabh Banga, proxy counsel for
for Mr. Shekhar Nanavaty, Advocate
for R9.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **05.07.2019**

1. The present appeal has been placed before this Court in terms of the order dated 07.05.2019, passed by the Registrar wherein it is recorded that learned counsel for the appellant has sought an exemption from bringing on record the LRs of the deceased respondent no. 6. With regard to the respondent No.8/Trust, it has been observed that the same stands dissolved by way of a cancellation deed and an application for substituted service has already been moved by the counsel for the appellant.

2. Learned counsel for the appellant clarifies that Sh. Surender Kumar Jain, the respondent no. 6 was impleaded as defendant no. 6 in the suit proceedings and he had moved an application, registered as I.A. No. 5237/2011, stating *inter alia* that the suit be decided on merits *suo moto*,

RFA(OS) 51/2018

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after examining the documents filed by the parties. He had also sought exemption from further appearance in the suit and for discharging the counsel engaged by him.

3. It is stated that vide order dated 14.08.2015, an application moved by the appellant / plaintiff in the suit, i.e. I.A. No. 7088/2015 praying *inter alia* for exemption from substituting the legal heirs of the defendant No.6 was dismissed by the Joint Registrar. Aggrieved by the dismissal order, the appellant/plaintiff moved a Chamber Appeal, OA No. 384/2015 that was allowed by the learned Single Judge vide order dated 28.03.2017 and the appellant/plaintiff was exempted from substituting the LRs of the defendant No. 6. A copy of the order dated 28.03.2017 has been handed over and is taken on record.

4. In view of the aforesaid order, whereby the appellant/plaintiff was exempted from substituting the LRs of the defendant No. 6 on the ground that he had not participated in the suit proceedings, the appellant herein is exempted from serving the LRs of the deceased respondent no. 6 as also the respondent no. 8/Trust that has since been dissolved.

5. List on 18.11.2019.

CM APPL. 6596/2019 (under Section 5 of the Limitation Act for condonation of delay in re-filing the CM APPL. 6595/2019).

1. This application has been filed by the appellant/plaintiff praying *inter alia* for condonation of delay of 11 days in re-filing CM APPL. 6595/2019.

2. For the reasons stated in the application, the delay of 11 days in re-filing CM APPL. 6595/2019 is condoned.
3. The application is disposed of.

CM APPL. 6595/2019 (under Order V Rule 20 r.w. Section 151 of the CPC, 1908 for effecting service on the respondent no. 8 through substituted mode).

1. List this application before Registrar for passing appropriate orders in accordance with law.

CM APPL. 6594/2019 (under Order XXII Rule 4 Sub Rule 4 of the CPC, 1908 seeking exemption to the appellant to bring the LRs of the deceased Smt. Krishan Devi / respondent no. 9 on record).

1. This application has been filed by the appellant/plaintiff praying *inter alia* that he be exempted from bringing on record the LRs of the deceased Smt. Krishan Devi / respondent no. 9, who had expired on 10.01.2018.
2. Mr. Rishabh Banga, proxy counsel appearing for Mr. Shekhar Nanavaty, learned counsel for the respondent No.9 states that he has instruction to appear for the LRs of the respondent No.9, Mr. Pukhraj Kumar and Sh. Narender Kumar. He seeks time to file a reply to the application.
3. Reply, if any, be filed within four weeks with an advance copy to the counsel for the appellant, who may file a rejoinder thereto, if necessary, within a period of four weeks thereafter.
4. List before the Registrar on 19.09.2019 for appropriate orders.

CM APPL. 29029/2018 (by the appellant for stay)

1. List before Registrar on the date fixed, for passing appropriate orders.

HIMA KOHLI, J

ASHA MENON, J

JULY 05, 2019/MK