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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(OS) 1161/2015

RAKESH GUPTA & ANR

..... Plaintiff

Through: Ms. Diksha Goswami & Mr.  
Vipin Singh, Advs.

versus

SUSHIL KUMAR GUPTA & ORS

..... Defendant

Through: Mr. Keshav Sehgal, Mr. Harkirat  
Singh & Mr. Shivam Gaur, Adv.  
for D-1 & 2

**CORAM:**  
**JOINT REGISTRAR (JUDICIAL) SH. MANISH  
SHARMA, (DHJS)**

**ORDER**  
**11.01.2023**

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**I.A.No.13546/2017 (under Section 151 CPC by  
defendant no.1) &  
I.A.No.1005/2021 (under Order XXXIX Rule 1 & 2  
CPC filed by plaintiff no.1)**

1. No reply to the captioned IAs has been filed till date.

**I.A.No.12722/2022 (under Order XXXIX Rule 1 & 2  
CPC filed by plaintiff no.1)**

2. As per office note, rejoinder has been filed by plaintiff  
no.1.

**I.A.No.18474/2022 (under Section 5 of the Limitation  
Act filed on behalf of defendant no.1 & 2 for  
condonation of 4 days delay in filing reply to IA  
No.12722/2022)**

3. Learned counsel for plaintiff accepts notice of the  
captioned IA and submits that he has no objection, if



delay is condoned.

4. Heard. Record perused.
5. In the interest of justice, delay in filing reply to IA No.12722/2022 is condoned.
6. IA stands disposed of.

**I.A.No.15129/2018 (under Order 22 Rule 4 CPC filed by plaintiff for bringing the LRs of defendant no.4);**

**IA No.14014/2021 (under Order 22 Rule 4 read with Section 151 CPC to bring on record proposed legal heirs of one of the legal heirs of defendant no.4 Smt. Angoori Devi) &**

**IA No.14015/2021 [Application filed on behalf of plaintiffs under section 5 of the Limitation Act read with Section 151 CPC read with Order 22 Rule 4 (4) and rule 4(5) and Delhi High Court rules for condonation of delay in filing the application under Order 22 Rule 4 of CPC for bringing on record the legal heirs of the defendant no.4(b)]**

7. As per office note, notice through e-mail has been sent to proposed LRs No.4 (a)(i) to 4(a) (iii).
8. Learned counsel for plaintiff submits that defendant no.4/Smt. Angoori Devi passed away on 20/08/2018 leaving behind following legal heirs:

- (1) Sh. Rakesh Gupta (son) - already plaintiff no.1
- (2) Sh. Suresh Gupta (son) (since deceased)
- (3) Sh. Mukesh Gupta (since deceased)
- (4) Smt. Kavita Gupta (wife of Sh. Mukesh Gupta)
- (5) Sh. Mayank Gupta (son of Sh. Mukesh Gupta)
- (6) Smt. Shruti Jain (daughter of Sh. Mukesh Gupta)  
– already on record as plaintiff no.2



(7) Sh. Sushil Kumar Gupta (son of Smt. Angoori Devi) – already on record as LRs of defendant no.1

(8) Smt. Renu Gupta (daughter of Smt. Angoori Devi)

9. During the pendency of the application, one of the LR of late Smt. Angoori Devi namely Sh. Suresh Kumar Gupta also passed away on 12/04/2021 leaving behind following legal heirs:

- (i) Smt. Sunita Gupta (wife)
- (ii) Sh. Abhinav Gupta (son)
- (iii) Sh. Rachin Gupta (son)

10. Plaintiff has filed another application under Order 22 Rule 4 CPC on 26/10/2021 for impleading the legal heirs of late Suresh Kumar Gupta. Learned counsel for plaintiff submits that delay in filing application bearing I.A.No.14015/2021 for condonation of delay in filing I.A.No.14014/2021 may be condoned in view of the directions of the Hon'ble Supreme Court in Re: Cognizance for Extension of Limitation; Suo Motu WP(C) No.3/2020.

11. Learned counsel for defendant no.1 & 2 submits that he has no objection, if the captioned IAs are allowed.

12. Heard. Record is perused.

13. The Hon'ble Supreme Court in Re: Cognizance for Extension of Limitation; Suo Motu WP(C) No.3/2020, has excluded the period from 20/03/2020 to 28/02/2022 for the purpose of computing the period of limitation. In view thereof, delay in filing application for bringing on



record LRs of Sh. Suresh Kumar Gupta is condoned. IA No.14015/2021 is allowed.

14. In the instant suit after the death of aforesaid defendant/LR of defendant, right to sue survives in favour of the plaintiff and against the legal heirs of the defendant no.4.

15. Considering the aforesaid submissions, the captioned IAs are allowed. LRs of defendant no.4 (Angoori Devi) and LRs of late Suresh Kumar Gupta are taken on record. Let amended memo of parties be filed.

16. IAs stand disposed of.

**CS(OS) 1161/2015**

1. Vide order dated 10/01/2023, the Hon'ble Court has directed to place the matter before the Hon'ble Court after disposal of pending applications.
2. Accordingly, list the matter before the Hon'ble Court for further directions on **07<sup>th</sup> February, 2023.**

**MANISH SHARMA, (DHJS)  
JOINT REGISTRAR (JUDICIAL)  
JANUARY 11, 2023/nk**

*Click here to check corrigendum, if any*