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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
(10) CS(OS) 1239/2015 & I.A. 15101/2018, I.A. 8861/2019, I.A. 8862/2019, I.A. 1703/2020, I.A. 857/2021, I.A. 18919/2023, I.A. 20692/2023, I.A. 21227/2023
DINESH MADANPlaintiff

Through: Mr. P.S. Bindra, Sr. Adv. with
Mr. Shailendra Paul, Mr.
Pranshu Paul and Mr. Dhruv
Madan, Advs.

versus

ANIL MADAN & ANRDefendants

Through: Ms. Kamlakshi Singh, Adv. for
LR No.1(a)
Mr. Deepak Vohra, Mr. Nishant
Gupta and Mr. Shivanshu
Singh, Advs. along with Mr.
Ashish Madan, for LR No.(d) &
(e) of defendant no.1
Ms. Asha Jain Madan and Mr.
Mukesh Jain, Advs. for
applicant in I.A.20692/2023 &
I.A. 21227/2023
Mrs. Mrinalini Sen and Ms.
Pooja Kapur, Advs. for Mrs.
Sonia Madan with Mrs. Sonia
Madan in person
Mr. Ashish Mohan and Ms.
Sagrika Tanwar, Advs. for D-2
Mr. Ankit Jain, Mr. Aditya
Chauhan, Ms. Apurva Tyagi,
Ms. Divyanshu Rathi and Ms.
Radhika Bansal, Advs. for
Bimla Madan.

(11)+ CS(OS) 626/2016 & I.A. 16022/2016, I.A. 7261/2018, I.A. 8144/2019, I.A. 17557/2019, I.A. 7990/2021, I.A. 7309/2022, I.A. 7310/2022, I.A. 19475/2022, I.A. 19855/2023, O.A. 89/2018



ANIL MADAN

.....Plaintiff

Through: Ms. Kamlakshi Singh, Adv. for
LR No.1(a)
Mr. Deepak Vohra, Mr. Nishant
Gupta and Mr. Shivanshu
Singh, Advs. along with Mr.
Ashish Madan, for LR No.(c) &
(d)

versus

DINESH MADAN & ORS

.....Defendants

Through: Mr. P.S. Bindra, Sr. Adv. with
Mr. Shailendra Paul, Mr.
Pranshu Paul and Mr. Dhruv
Madan, Advs. for D-1
Ms. Asha Jain Madan and Mr.
Mukesh Jain, Advs. for
applicant in I.A.19855/2023
Mr. U.D. Bhargava, Adv. for
D-9
Mrs. Mrinalini Sen and Ms.
Pooja Kapur, Advs. for Mrs.
Sonia Madan with Mrs. Sonia
Madan in person
Mr. Ashish Mohan and Ms.
Sagrika Tanwar, Advs. for D-3
Mr. Ankit Jain, Mr. Aditya
Chauhan, Ms. Apurva Tyagi,
Ms. Divyanshu Rathi and Ms.
Radhika Bansal, Advs. for
Bimla Madan

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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28.08.2024

O.A.134/2024 & O.A. 133/2024

1. These appeals have been filed by the appellants challenging the Orders dated 15.07.2024, passed by the learned Joint Registrar



(Judicial) in I.A. No.706/2024 in CS(OS) 1239/2015; and IA. No. 705/2024 in CS(OS) 626/2016, directing that all legal heirs of defendant no.1 in CS(OS) 1239/2015 and Plaintiff in CS(OS) 626/2016, that is, Late Shri Anil Madan, except Smt. Bimla Madan, mother of Late Shri Anil Madan, who is otherwise a party in the Suits, shall be brought on record as the legal heir of Late Shri Anil Madan.

2. Learned senior counsel for the plaintiff in CS(OS) 1239/2015 submits that Late Shri Anil Madan has died intestate. Therefore, all his Class-I legal heirs, including the mother of Late Shri Anil Madan, that is, Smt. Bimla Madan, ought to have been impleaded as legal heirs of Late Shri Anil Madan.

3. Learned senior counsel further submits that Smt. Bimla Madan, being the mother of Late Shri Anil Madan, and being his Class-I legal heir, would get a share in the estate left behind by Late Shri Anil Madan.

4. Mr. Ankit Jain, learned counsel appearing for Smt. Bimla Madan, supports the present appeals filed by the appellants.

5. On the other hand, the learned counsel for the other legal heirs of Late Shri Anil Madan submits that as the interest and stand of Smt. Bimla Madan has been adverse to that of Late Shri Anil Madan in the Suits, she cannot be impleaded as a legal representative of Late Shri Anil Madan in the Suits. She places reliance on the judgment of this Court in **S.K. Beri v. Deepak Beri & Ors.**, 2023 SCC OnLine Del 789.

6. I have considered the submissions made by learned counsel for the parties.

7. It is not denied that in the present case, the stand of Smt. Bimla



Madan in the Suits is clearly adverse to the stand taken by Late Shri Anil Madan. In a similar situation, this Court in **S.K. Beri** (*supra*) has held that where the interest of the legal representative is in conflict with the interest of the deceased plaintiff, he cannot be permitted to represent the deceased plaintiff in the Suit. The right to sue in such circumstances would accrue only in favour of the legal representatives whose interest is not in conflict with the deceased. I may reproduce the relevant paragraphs of the said Judgment:

“13. In Jaladi Saguna v. Satya Sai Central Trust, (2008) 8 SCC 521, the Supreme Court has observed that when an application for impleadment is filed, the Court shall consider and decide whether the legal representative of the deceased plaintiff should be brought on record before proceeding with the case on merits. Further, the determination as to who is the legal representative under Order XXII Rule 5 of the CPC would only be for the limited purpose of representation of the estate of the deceased for the adjudication of that case and the same would not confer on the said legal representative any right to the property, which is the subject matter of the suit vis-à-vis other rival claimants to the estate of the deceased. Inter se dispute between the rival claimants has to be adjudicated by way of independent legal proceedings.

14. In Chandralekha (supra), Karnataka High Court has observed that the ‘right to sue’ in relation to a legal representative has to be determined with reference to the claim made by the deceased plaintiff. Only when there is a ‘right to sue’ in favour of a legal representative, he would have the right to continue the suit filed by the deceased plaintiff as a legal representative.”

8. In the present case, therefore, the order passed by the learned Joint Registrar (Judicial) stating that only the wife and the children of



Late Shri Anil Madan, excluding Smt. Bimla Madan, the mother of the deceased, would represent interest of the deceased in the Suits, cannot be faulted.

9. At the same time, it is not denied by the other legal representatives of Late Shri Anil Madan that Late Shri Anil Madan has died intestate. In accordance with the Hindu Succession Act, 1956, the mother of the deceased, namely Smt. Bimla Madan, would be a Class I legal heir of the deceased Shri Anil Madan, and therefore, would also have an equal share in the estate left behind by Late Shri Anil Madan. In the light of the same, it is clarified that the impugned order shall not have any effect on the share of Smt. Bimla Madan in the estate left behind by Late Shri Anil Madan.

10. Ms. Sen, learned counsel appearing for the daughter of Late Shri Anil Madan, namely Sonia Madan, submits that in case Smt. Bimla Madan wishes to have a share in the estate left behind by Late Shri Anil Madan, she would have to file separate proceedings for the same.

11. As far as the above submission is concerned, this Court, at present, is not deciding as to whether Ms. Bimla Madan can claim her right in the estate of Late Shri Anil Madan in the present proceedings and if so to what extent. Therefore, the said submission can have no bearing to the adjudication of the present appeals.

12. The appeals are disposed of with the above clarification.

I.A. 15101/2018, I.A. 8861/2019, I.A. 8862/2019, I.A. 1703/2020, I.A. 857/2021, I.A. 18919/2023, I.A. 20692/2023, I.A. 21227/2023 in CS(OS) 1239/2015
I.A. 16022/2016, I.A. 7261/2018, I.A. 8144/2019, I.A. 17557/2019,



**I.A. 7990/2021, I.A. 7309/2022, I.A. 7310/2022, I.A. 19475/2022,
I.A. 19855/2023, O.A. 89/2018 in CS(OS) 626/2016**

13. Learned counsels for the parties shall prepare a brief note of their submissions on the pending applications.

14. List the applications for hearing on 28.10.2024, at the end of the board.

NAVIN CHAWLA, J

AUGUST 28, 2024/NS/VS

Click here to check corrigendum, if any