



\$~8

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 405/2017

INDIAN OIL CORPORATION LIMITEDPetitioner

Through: Mr.Naveen Kr. Chaudhary, Advocate

versus

SHRI UMRAO SINGH & ORSRespondents

Through: Ms.Bhavika Kohli, proxy counsel for
Ms.Asha Jain Madan, Advocate for R-2
to 4, 6, 8 to 11 & 13 to 17

CORAM: SH. SANJAY KUMAR SHARMA, REGISTRAR

ORDER

% 21.03.2023

Today's Court proceedings are conducted through physical/hybrid mode.

CM APPL.49512/2019 (u/S 151 CPC)

This is an application under Section 151 CPC filed by the petitioner seeking issuance of notice to the LR's of deceased respondent no.1 (Sh.Umrao Singh) as well as to file the death certificate of deceased respondent no.1 or in alternative, affirm the date of death of deceased respondent No.1 on an affidavit.

Notice of the application stands served on the legal heirs of deceased respondent No.1 through Smt. Sunita Devi, who is stated to be the daughter-in-law of deceased respondent No.1. However, neither is there any appearance on behalf of legal heirs of deceased respondent No.1 nor has the death certificate of said deceased respondent been filed so far.

It is stated in the application that on making inquiry, the petitioner came to know that the respondent No.1 died in the year 2010 and his



family is residing in Delhi. However, the exact date of death as well as death certificate could not be procured despite best efforts. Therefore, the impugned award dated 30.08.2016 passed by the learned Trial Court in favour of respondent No.1 is not sustainable in law and, hence, liable to be quashed/set aside as it was passed in favour of a dead person.

In view of the aforesaid facts of the matter, the prayer made in the instant application cannot be acceded to.

Learned counsel for the petitioner submits that since the legal heirs of deceased respondent No.1 are not appearing despite service nor providing exact date of death, it appears that they are not interested to prosecute the matter. Therefore, in such a scenario the name of respondent No.1 is liable to be deleted from the array of parties and requests that the matter may be placed before the Hon'ble Court for appropriate orders.

As requested, list this application before the Hon'ble Court on 11.05.2023, for further directions.

W.P.(C) 405/2017

As per office report, counter affidavit on behalf of respondent nos. 1, 3, 5, 7, 12 & 18 has not been filed.

Counter affidavit stands filed on behalf of respondent nos. 2, 4, 6, 8 to 11 & 13 to 17. Rejoinder thereto has also been filed.

Vide order dated 03.09.2021, it has been recorded that respondent no.18 and LR's of deceased respondent no. 12 have been served through publication.

Perusal of the record shows that neither there has been any appearance on behalf of respondent nos. 18 and LR's of deceased



respondent no.12 nor any counter affidavit has been filed on their behalf despite opportunities. Accordingly, right of respondent no.18 and LRs of deceased respondent no.12 to file the counter affidavit is hereby closed.

Counsel for the respondents requests that she may be given some time to contact respondent nos. 1, 3,5 & 7 and file counter affidavit, if any, on their behalf also. By way of last and final opportunity, four weeks time is granted to respondent nos. 1,3,5 & 7 to file the counter affidavit, if any, with advance copy to counsel for the petitioner, who may file rejoinder thereto, if any, within four weeks thereafter failing which, the right of respondent nos.1,3, 5 & 7 shall stand closed.

Affidavit of compliance in terms of order dated 25.07.2017 be also filed before the next date of hearing.

List on 27.07.2023.

REGISTRAR

MARCH 21, 2023/sk