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

+ LA.APP. 404/2015

ROOP CHAND (SINCE DECEASED) THR HIS LRS Appellants

Through: Ms. Jyoti Nambiar, Advocate

versus

UNION OF INDIA & ORS Respondents

Through: Ms. Nidhi Thakur, Advocate for

Mr. Sanjay Kr. Pathak, Advocate with

Mr. Vikrant N. Goyal, Advocate

(through vc) for R-1

Ms. Sheenu Priya & Mr. Atik Gill,

Advocates for Mr. Rishikesh Kumar,

ASC for R-4 (9911483629)

Ms. Ananya Roy, Advocate for

LR of R-5 (9971556889)

CORAM: MS. KAUSHLYA VERMA, REGISTRAR

ORDER

% **11.03.2024**

CM APPL.14685/2024 (u/S 151 CPC).

1. The present application has been filed seeking partial modification of order dated 08.02.2024 to the extent that **‘remove/expunge the name of Sh. Naresh Kumar from paragraph No.4 of order dated 08.02.2024 and clarify that no action be initiated against Sh. Naresh Kumar)’**.

para 4 of order dated 08.02.2024 runs as under:-

para 4

In the circumstance, issue court notice to the concerned SDM to take steps to recover amount of costs of Rs.15,000/- from appellant No.1(iii)- **Naresh Kumar, SPA Holder and Smt. Shaymo,**

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W/o Late Sh. Ramchander, Pushpa Devi, daughter of Late Sh. Ramchander, Hari Chand, S/o Late Sh. Ramchander, Sunil Kumar, S/o Late Sh. Ramchander and Anil, S/o Late Sh. Ramchander, all residents of 222, HOLAMBI KALAN, DELHI-110082, and deposit the same in the name of Registrar General of this court, returnable on 24.05.2024.

2. Ms. Jyoti Nambiar, learned counsel for the appellant No.1(iii) draws attention of this Court to para 3(i) of the present application wherein it has been averred by the applicant/appellant No.1(iii) that Sh. Naresh Kumar is the SPA Holder for all the present appellants and was also the holder for Late Sh. Ram Chander and with the death of Late Sh. Ram Chander (principal), his agency with Sh. Naresh Kumar also terminates, (Section 201 of the Indian Contract Act, 1872).
3. It is further averred that Sh. Naresh Kumar had no role in moving the application bearing **CM Nos 54246/2022** and **54247/2022** for substitution of LRs of deceased appellant No.1(i)-Sh. Ram Chander, as the said applications were filed by proposed LRs of deceased appellant No.1(i) themselves.
4. Per contra, learned counsel for respondents No5(i to iv) submits that the appellant No.1(iii)-Naresh Kumar being a SPA Holder of all the remaining appellants including

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claiming himself to be a SPA holder of deceased appellant No.1(i)-Sh. Ram Chander, moved the Hon'ble Supreme Court on 18.02.2021 by way of filing an SLP against an order dated 08.01.2021 passed by the Hon'ble High Court whereby 80% of the compensation amount was directed to be released to respondent No.5 concealing the material fact of demise of appellant No.1(i) and obtained a stay order on 03.03.2021.

5. Learned counsel for respondents 5(i to iv) further submits that appellant No.1(iii)-Naresh Kumar remained SPA holder in respect of deceased appellant No.1(i) for the purpose of moving the Hon'ble Supreme Court, filing an SLP and obtaining a stay order in favour of appellants including deceased appellant No.1(i) but now wants to wriggle out of the liability of making payment of costs of Rs.15,000/- (order 29.03.2023 and 08.02.2024) alongwith applicants in dismissed applications bearing CM APPL 54246/2022(U/O 22 Rule 3 CPC and CM APPL 54247/2022(U/S 5 of Limitation Act for condonation of delay).
6. She further submits that the obvious conduct of appellant No.1(iii) to blow hot and cold simultaneously should not be accepted by this Court.
7. Learned counsel further submits that the order dated 29.03.2023 and subsequent order dated 08.02.2024 **holding the appellant No.1(iii) along with applicants in CM Nos**

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**54246/2022 and 54247/2022 liable to pay costs of Rs.
15,000/- is justified.**

8. Arguments heard.
9. Re-notify on 28.03.2024 for orders.

MARCH 11, 2024

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REGISTRAR

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