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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) 3439/2015

THAKUR DASS

..... Plaintiff

Through: Mr. Rahul Narang, Adv. (Mobile
No.9416749397 & e-mail ID
advrahulnarang@gmail.com)

versus

DEVINDER & OTHERS

..... Defendant

Through: Mr. Sunil Dahiya, Adv. for D-1 & 2
(Mobile No.9555650325)

CORAM:

**JOINT REGISTRAR (JUDICIAL) MS. SHUCHI LALER,
(DHJS)**

ORDER

28.10.2022

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CS(OS) 3439/2015

1. The matter is at the stage of plaintiff's evidence.
2. The following applications are pending adjudication:

IA No. 15445/2019 (Application filed by plaintiff under Order 22 Rules 1 and 3 read with Section 151 CPC for substitution of the legal representative of deceased plaintiff/Sh. Thakur Dass);

IA No. 15446/2019 (Application filed by plaintiff under Order 22 Rules 4(4) read with 151 CPC for setting aside the abatement);

IA No. 15447/2019 (Application filed by plaintiff under section 5 of the Limitation Act of delay of 267 days in filing the application for substitution and setting aside the abatement) &

IA No. 15448/2019 (Application filed by plaintiff under Section 5



of Limitation Act seeking condonation of delay of 10 days in re-filing the application)

1. As per office note, e-vakalatnama has been filed on behalf of plaintiff vide diary no.1786414 dated 20/10/2022.
2. Replies to applications bearing I.A.No.15445/2019, 15446/2019 & 15447/2019 have been filed on behalf of defendant no.1 & 2.
3. Arguments heard.
4. Perusal of record reveals that the plaintiff expired on 10/08/2018 whereas the application for bringing on record his legal representatives was filed on 16/09/2019. A query has been put as to whether the present suit has abated as the application under Order XXII Rule 3 CPC has not been filed within the prescribed period of 90 days.
5. Learned counsel for plaintiff fairly accedes that the abatement has taken place, however, he submits that he has also moved an application bearing IA No.15446/2019 for setting aside the abatement.
6. As the question of setting aside the abatement has arisen, in view of Chapter II Rule 3 (37) proviso (ii) of Delhi High Court (Original Side) Rules, 2018, the captioned IAs may be placed before the Hon'ble Court for further directions on **21st November, 2022.**

**SHUCHI LALER, (DHJS)
JOINT REGISTRAR (JUDICIAL)**

OCTOBER 28, 2022/nk

Click here to check corrigendum, if any