

RSA No. 61 of 2019

13.06.2019 Present: Ms. Shalini Thakur, Advocate, for the appellants.

Mr. Dinesh Thakur, Additional Advocate General,
with M/s R. P. Singh and Amit Kumar Dhumal,
Deputy Advocate Generals, for the respondent.

CMP No. 1846 of 2019

By way of this application filed under Order 1 Rule 10(2) of the Code of Civil Procedure, a prayer has been made for deletion of the name of Shankari Devi, who has been impleaded as appellant No. 7, on the ground that her name initially got typed in the memo of parties in the Civil Suit erroneously, as fact of the matter is that said person had already died as on the date when the suit was filed.

Learned counsel for the appellants submits that as the name of Shankari Devi continued to appear in the memo of parties, therefore, she was also impleaded as appellant in the present appeal, though it is matter of record that Shankari Devi had died somewhere in the year 2009, whereas the suit was filed in the year 2010

I have perused the record of the learned Courts below and it appears that Shankari Devi had not signed *Vakalatnama* either in the Civil Suit or in the first appeal. Thus, in my considered view, there appears to be merit in the contention of learned counsel for the appellants that the name of Shankari Devi was erroneously mentioned in the plaint and said mistake which crept in at that stage, has since continued.

Be that as it may, taking into consideration the peculiar facts of the case, the application is allowed as prayed for and the name of Shankari Devi (appellant No. 7) is ordered to be deleted from the memo of parties. Let fresh memo of parties be filed within two weeks. Application stands disposed of.

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List in due course.

(Ajay Mohan Goel)
Judge

June 13, 2019
(bhupender)