

State of H.P. & another vs. Arun & others

RFA No. 413 of 2018

30.07.2024

Present: Mr. R.K.Negi, Additional Advocate General, for the appellants/State.

Ms. Pranjal Munjal, Advocate, vice Mr. Janesh Gupta, Advocate, for respondents No. 1, 2, 3 (a) (i), 3(b) (i) to 3(b) (iii), 5 and 6.

None for respondents No. 3 (iii) (a), 3(iii) b and proposed LRs No. 4 (e), 7(a) and 7(b).

Lrs No. 4 (a) to 4(d) already ex-parte vide order dated 10.10.2023, passed by Additional Registrar (Judicial).

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LRs No. 4 (e), 7 (c) (i) and 7(c) (ii) are not present despite being duly served. Hence, they are proceeded against ex-parte.

CMP (M) Nos. 504 & 505 of 2023

Despite service, none of the legal heirs of deceased respondent No.4 i.e. Lrs No. 4 (a) to 4(d) have put in appearance on 10.10.2023 before the Additional Registrar (Judicial) and they were proceeded against ex-parte on the said date. LR No. 4(e), despite being duly served not present before the Court, hence proceeded against ex-parte.

No reply is intended to be filed on behalf of the non-applicants to the present applications.

Since, the right to sue inheres/survives with the legal heirs of deceased respondent No.4, the application i.e. CMP(M) No. 504 of 2023 is allowed. Legal heirs of

deceased respondent No.4 are ordered to be brought on record.

From the bonafide reasons mentioned in the CMP(M) No. 505 of 2023, it is evident that delay in filing the application for bringing on record legal heirs of respondent No.4 is neither willful nor deliberate. Therefore, the delay for bringing on record legal heirs of respondent No.4 is condoned. Abatement, if any, is set-aside.

Applications stand disposed of.

Amended memo of parties appended alongwith the applications is ordered to be taken on record.

CMP (M) Nos. 965 & 966 of 2023

Legal heirs of deceased respondent No.7 i.e. 7(a) & 7(b) were duly served and since none has put in appearance on their behalf on 23.05.2024, hence they are proceeded against ex-parte. LR No.7 (c) is stated to have died. Appropriate steps have already been taken for bringing on record LRs of deceased LR No. 7 (c) by way of filing separate applications.

No reply is intended to be filed to the present applications.

Respondent No.7 is stated to have died on 29.07.2022. The death certificate and legal heir certificate are appended alongwith the application. Since, the right to

sue inheres/survives with the legal heirs of deceased respondent No.7, the application i.e. CMP(M) No. 965 of 2023 is allowed. Legal heirs of deceased respondent No.7 are ordered to be brought on record.

From the bonafide reasons mentioned in the CMP (M) No. 966 of 2023, it is evident that delay in filing the application for bringing on record legal heirs of respondent No.7 is neither willful nor deliberate.

Other than the aforesaid, the bringing on record legal heirs of respondent No.7 would help to adjudicate the matter effectually and in its entirety. Therefore, the delay in filing the application for bringing on record legal heirs of respondent No.7 is condoned. Abatement, if any, is set-aside.

Applications stand disposed of.

Amended memo of parties appended alongwith the applications is ordered to be taken on record.

CMP (M) Nos. 573 & 574 of 2024

No reply is intended to be filed.

Legal heirs of deceased respondent No.7 (c) stands served. None has put in appearance on their behalf, hence, they are proceeded against ex-parte.

Respondent No.7(c) is stated to have died on 15.03.2012. The death certificate and legal heir certificate are appended alongwith the applications. Since, the right

to sue inheres/survives with the legal heirs of deceased respondent No.7(c), the application i.e. CMP(M) No. 573 of 2024 is allowed. Legal heirs of deceased respondent No.7 (c) are ordered to be brought on record.

From the bonafide reasons mentioned in the application i.e. CMP(M) No. 574 of 2024, it is evident that delay in filing the application for bringing on record legal heirs of respondent No.7 (c) is neither willful nor deliberate. Therefore, the delay is condoned. Abatement, if any, is set-aside.

Applications stand disposed of.

Fresh amended memo be filed within two weeks.

(Bipin C. Negi)
Judge

July 30, 2024 (Nisha)