

11.5.2016. Present: Mr. Tara Singh Chauhan, Advocate, for the appellant.
Mr. Y.P. Sood, Advocate, for respondent No. 1(ii) and 2.
None for respondents No. 1(i), 1(iv) and 1(v).

Record received. It is interesting to note that the same person is the plaintiff and defendant also. The suit has been filed by Shakuntla Devi wife of Shri Kamal Kumar against her mother Ram Asri, deceased defendant No. 1. On her death, the plaintiff got herself impleaded as one of the defendants also being legal representative of deceased defendant Ram Asri. As a matter of fact, she being already on record as plaintiff should have not sought her substitution as one of the legal representatives of deceased defendant. The trial Court has not taken into consideration this aspect and without application of mind impleaded the plaintiff as one of the defendants also. The lower Appellate Court has also committed a mistake as the record of the trial Court has not been ordered to be corrected. No doubt, in the lower Appellate Court the plaintiff (Shakuntla Devi) was not arrayed as respondent, however, the memo of parties in the lower Appellate Court was not in accordance with that in the trial Court. The lower Appellate Court, therefore, should have ensured that the record is kept straight. In this Court again, the appellant-plaintiff has been shown as respondent No. 1(iii) also. Her name is ordered to be deleted in this appeal. The Court Master to make necessary correction in the memo of parties in red ink. The appellant-plaintiff to file appropriate application in the trial Court for correction of the record accordingly and corrected certified

copy of the judgment and decree be filed afresh within three weeks.
Record alongwith copy of this order be sent to learned trial Court at
once. List on **4.7.2016**. Amended memo be also filed in the
meanwhile.

(Dharam Chand Chaudhary),
Judge.

May 11, 2016,
(vs)