



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil First Appeal No. 170/2010

Shiv Dutt Asawa (Deceased)

----Appellant

Versus

Shri Niwas Toshniwal Son Of Late Sh. Kishan Maheshwari,

----Respondent

Connected With

S.B. Civil First Appeal No. 108/2010

Shiv Dutt Vaishnav Son Of Shri Baluram Vaishnav

----Appellant

Versus

Shiv Dutt Asawa Son Of Shri Omdutt Asawa

----Respondent

For Appellant(s)	:	Mr. Lokesh Tiwari for Mr. Rajat Ranjan
For Respondent(s)	:	Mr. Akash Gupta for Mr. B.L. Agarwal

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

11/03/2024

S.B. Civil First Appeal No. 170/2010

1. Heard on application Nos. 1/23, 2/23 and 3/23 filed under Order 22 Rule 2 CPC, Order 22 Rule 4 and 9 CPC and Section 5 of Limitation Act.
2. On death of respondent No.5 Sadakanwar Maloo, a prayer is made to delete her name as she was only a proforma respondent.
3. Considered aforesaid.
4. The application is allowed and the name of respondent No.5- Sadakanwar Maloo is hereby deleted and "deceased during pendency of appeal" be reflected before her name.

5. The application stand disposed of.
6. On death of respondent No.1 Sh. Niwas Toshniwal during period of COVID-19, an application is filed for taking on record the legal representatives and further application under Section 5 of Limitation Act is filed with prayer that aforesaid period was exempted by order of Hon'ble Supreme Court.
7. Having considered the submissions the right to sue survives in favour of legal representatives, and the applications are allowed and the legal representative as proposed in the application are taken on record and substituted in place of deceased respondent No.1 after condonation of delay and setting aside of abatement, if any.
8. Amended cause title is taken on record.
9. Application No. 2/2023 and 3/2023 stands disposed of.
10. Issue notice to LR's of respondent No.1 Sh. Niwas Toshniwal.
11. Additional set be issued by registered speed post.

S.B. CFA No.108/2010

1. Heard on application No. 1/2024 filed under Order 22 Rule 2 for deleting the name of respondent No.7 Smt. Sadakanwar.
2. Having considered the submissions, the application is allowed and the name of Smt. Sadakanwar is hereby deleted and "deceased during pendency of appeal" be reflected before her name.
3. The application stands disposed of.

4. Mr. Lokesh Tiwari accepts notice on behalf of respondent No.2 and 3 as he is appearing for respondent No.1/1 to 1/3.
5. Respondent Nos.4, 5, 6 and 8 are proforma respondents so at the request of learned counsel for appellant the service upon respondents No.4, 5, 6 and 8 is dispensed with.
6. Service is complete.
7. List on 29.04.2024.

(ASHOK KUMAR JAIN),J