

CS NO. 49/19

SMT. MANGATI DEVI VSL BAL KISHAN

15.07.2020

At 12:00 NOON

Presence: Sh. Shiv Kumar Guatam, Ld. Counsel for plaintiff (via video conferencing in cisco webex).

Matter is listed for arguments/reply on application under Order 22 Rule 4 CPC. The above said application was filed on behalf of plaintiff on 26.04.2019 along with amended memo of parties. Notice of the said application was served to the legal heirs of defendant no. 1. However, despite giving many chances no reply till now has been filed by LRs of defendant no. 1. Arguments of Ld. Counsel of plaintiff heard. Application perused.

In the above said application it has been stated on behalf of plaintiff that during the pendency of the case, the defendant no. 1 has expired on 15.03.2019. Defendant no. 2 is the wife of defendant no. 1. Now plaintiff wants to bring on record the legal heirs of defendant no. 1 which are as under:-

1. Smt. Arti Widow (defendant no. 2)
2. Ms. Radha daughter of defendant no. 1
3. Ms. Harshita daughter of defendant no. 1
4. Ms. Jiya daughter of defendant no. 1

The provisions of Order 22 Rule 4 (1) provides that where one of the two or more defendants dies during the pendency of the suit and the right to sue does not survive against the surviving defendant alone, then the LR/LRs of the deceased defendant can be made a party and they shall have a right to



proceed with the suit. For above an application has to be filed by the plaintiff within stipulated period of 90 days from the date of death.

In the present suit the defendant no. 1 expired on 15.03.2019. The application under Order 22 Rule 4 CPC has been filed by the plaintiff for bringing on record the legal heirs of defendant no. 1 on 26.04.2019, which is within the stipulated period. Also Court is of the view that the right to sue against the LRs of defendant including defendant no. 2 lies in favour of plaintiff. In view of above, the application is allowed and disposed of accordingly.

Amended memo of parties is taken on record.

Put up for appearance of newly added defendants, reply and remaining PE on **23.09.2020**.


(DIVYA GUPTA)

LD. CJ-03 (CENTRAL), THC

15.07.2020