

(2022) 08 DEL CK 0111

In the Delhi High Court

Case No : Civil Suit (OS) No. 870 Of 1986

Maharaja Jagat Singh

APPELLANT

Vs

LT.Col. Sawai Bhawani Singh

RESPONDENT

Date of Decision : 22-08-2022

Acts Referred:

Code Of Civil Procedure, 1908 — Section 15, 151, Order 22 Rule 3

Citation : (2022) 08 DEL CK 0111

Hon'ble Judges : Neena Bansal Krishna, J

Bench : Single Bench

Advocate : Abhishek Kumar Rao, Shailesh Suman, D.D. Singh, Babita Yadav, Ramni Taneja, Aman Jha, Rishi Tutu, Gaurav P. Shah, Raman Yadav, Shubha Yadav, Seerat Deep Singh, Rahul Singh Chouhan, Dr. M.P. Raju, Rajendra Singhvi

Judgement

Neena Bansal Krishna, J

I.A.3477/2021 (U/O XXII Rule 3 read with Section 151 of CPC, 1908 for impleadment)

1. An application under Order XXII Rule 3 read with Section 151 of Code of Civil Procedure, 1908, has been filed seeking impleadment of legal representative of Plaintiff No.2 Maharaj Prithvi Raj.

2. It is submitted in the application that plaintiff No.2 Maharaj Prithvi Raj has left for his heavenly abode on 02nd December, 2020 after suffering a cardiac arrest. He is survived by his son Prince Vijit Singh (who has been already arrayed as defendant No.5) and the estate of plaintiff No.2 is duly represented. The present application is formal in nature since the legal representative of deceased plaintiff No.2 is already on record. It is submitted that the amended memo of parties be accordingly taken on record. The application is supported by the Death Certificate of Maharaj Prithvi Raj.

3. A detailed reply to the application has been filed by Rajkumari Lalitya and Rajkumar Devraj, Legal heirs of deceased plaintiff No.1 Maharaj Jagat Singh

wherein similar assertions have been made about Prince Vijit Singh being the sole surviving heir of Maharaj Prithvi Raj. It is however, asserted that since Prince Vijit Singh is the contesting defendant there is conflict of interest between the plaintiffs and him for which reason he cannot be substituted in place of his father who was plaintiff No.2. It is, therefore, submitted that the application be dismissed with an observation that defendant No.5 is the sole surviving heir of his deceased father.

I.A.7957/2021 (U/O I Rule 10 read with Section 151 of CPC, 1908 for deletion of name of Maharaj Prithvi Raj)

1. Rajkumari Lalitya Kumari and Rajkumar Devraj legal representatives of original plaintiff Maharaj Jagat Singh and legal representatives of deceased defendant No.2 Maharani Gayatri Devi have also filed an application under Order I Rule 10 read with Section 15 of Code of Civil Procedure, 1908 to seek deletion of name of Maharaj Prithvi Raj in as much as Prince Vijit Singh who claims to be the sole surviving heir of Maharaj Prithvi Raj, is already a party to the suit as defendant No.5.

2. It is submitted that while the original plaintiff Maharaj Jagat Singh expired on 05th February, 1997, by order dated 16th September, 2018 the applicants Rajkumari Lalitya and Rajkumar Devraj being the son and daughter of original plaintiff Maharaj Jagat Singh were substituted as plaintiffs in place of their father. Maharaj Prithvi Raj who was defendant No.4 was transposed as co-plaintiff since he was claiming that he had no conflict with the plaintiff and he was transposed as plaintiff No.2 vide order dated 15th December, 1998. Rajmata Gayatri Devi defendant No.2 expired on 29th September, 2009. Since the applicants Rajkumari Lalitya and Rajkumar Devraj were already on record as plaintiffs, the name of Rajmata Gayatri Devi was deleted vide order dated 19th August, 2010. Maharaj Prithvi Raj has expired on 02nd December, 2020 and Prince Vijit Singh defendant No.5 who claims to be his sole surviving heir, is contesting the suit since it was filed in the year 1986. Since Prince Vijit Singh is already a party, name of Maharaj Prithvi Raj be deleted.

3. Submissions heard.

4. The basic premise for opposing the substitution of defendant no.5 Prince Vijit Singh the sole surviving heir of plaintiff No.2 Maharaj Prithvi Raj is that there is conflict of interest between Prince Vijit Singh and Rajkumari Lalitya and Rajkumar Devraj, who have been substituted as legal representatives of plaintiff No.1 Maharaj Jagat Singh. Maharaj Prithvi Raj had been supporting the plaintiff no.1 Maharaj Jagat Singh and for this reason was transposed as plaintiff No.2 vide Order dated 15th December, 1998. Since, Prince Vijit Singh who is the sole legal heir of Maharaj Prithvi Raj has conflict of interest with plaintiff no.1 now represented through Rajkumar Devraj and Rajkumari Lalitya, it is taken on record that defendant No.5 is the sole legal representative of deceased plaintiff No.2 Maharaj Prithvi Raj.

5. Since legal representative of Maharaj Prithvi Raj is already on record as defendant No.5, his name as plaintiff No.2 be deleted from array of parties.

6. The two applications are accordingly allowed.

7. Amended memo of parties be taken on record.

CS(OS) 870/1986 & I.As.3552/1999, 3415/2001, 6144/2002, 11942/2002, 1063/2004, 4654/2006, 7537/2006, 7538/2006, 7539/2006, 4358/2007, 6700/2007, 7518/2007, 5208/2011, 16258/2012, 2412/2016, 2413/2016, 17646/2018, 1358/2019, 4507/2019, 11814/2019, 14216/2019, 4981/2021, 12993/2021, 4803/2022, 9096/2022

List on 30th November, 2022 for consideration of pending applications.