

(2017) 12 DEL CK 0458

In the Delhi High Court

Case No : Civil Writ Petition No. 11390 Of 2017, Civil Miscellaneous Application No. 46492, 46494 Of 2017

Union Of India And Anr

APPELLANT

Vs

Dr. B N Mittal

RESPONDENT

Date of Decision : 20-12-2017

Acts Referred:

Citation : (2017) 12 DEL CK 0458

Hon'ble Judges : Hima Kohli, J; Rekha Palli, J

Bench : Division Bench

Advocate : Nikhil Bhardwaj, Arun Bhardwaj, Tamali Wad, Prince Anthony

Final Decision : Disposed Of

Judgement

1. The present petition has been filed by the petitioner against a dead man, Dr. B.N. Mittal, without impleading his legal heirs, who were duly

impleaded before the Tribunal in O.A. No.2339/2004, upon his demise on 28.07.2014.

2. On the first call, Ms. Tamali Wad, Advocate had entered appearance on behalf of the legal heirs of late Dr.B.N. Mittal to point out the above

position and had submitted that she has appeared in the case on seeing the same listed in the cause list, though she is not on caveat. She further stated

that aggrieved by the impugned order dated 02.07.2017 passed by the Tribunal, her clients had filed a Review Application in March 2017, on which

notice was issued on 24.03.2017, returnable on 24.05.2017. Thereafter, appearance was entered on behalf of the petitioners in the said application and

adjournments had been sought by them before the Tribunal on a couple of occasions, to file a reply. Instead, they have proceeded to file present

petition, without awaiting the orders on the Review Application filed by the legal heirs of the deceased respondent, which is next listed before the Tribunal on 15.02.2018.

3. At that stage, learned counsel for the petitioners had sought a pass over to enable him to obtain necessary instructions.

4. In the post lunch session, learned counsel for the petitioners seeks to explain that the petitioners decided not to await a decision on the Review

Application filed by the respondents for the reason that they had already delayed filing the present petition and were advised that if the review

application is ultimately rejected then it would result in further delay in approaching this Court, for relief, without any valid justification. He states that

due to bonafide inadvertence, the petitioners have impleaded the deceased respondent, who had expired in the year 2014, instead of impleading him

through his legal heirs.

5. Further, it is submitted on instructions that since the Review Application filed by the legal heirs of the deceased respondent is listed before the

Tribunal on 15.02.2018, instead of pressing the present petition at this stage, liberty may be given to the petitioners to withdraw the same while

reserving their right to file a fresh petition thereafter, which will take care of their anxiety that in the event, the respondents succeed in their Review

Application, all the other grounds that may be available to them in law and facts to assail the impugned judgment as also the orders that may be passed

by the Tribunal on the Review Application, can be taken up at one go in the subsequent petition.

6. In view of the aforesaid submission, the present petition is disposed of with liberty granted to the petitioners to file a fresh petition based on the

same cause of action, after disposal of the Review Application filed by the legal heirs of the deceased respondent and pending before the Tribunal. To

ensure that the Review Application is disposed of expeditiously, the petitioners are directed to file their reply without any further delay, so that the

matter can be taken up for hearing by Tribunal on the date fixed, i.e., on 15.02.2018

7. The petition is disposed of alongwith the pending applications.