

i.9-11
% 08.11.2012

Present: Mr. Deepak Khadaria, Advocate for Shri Vikas
Khadaria & Shri Kamal Khurana with parties in person
Mr. Abhinash Mishra, Advocate for LR's of Late Shri Mangi
Lal Jain with Shri Rajendra Jain & Shri Vinod Kumar Jain in
person
Mr. Francis Paul, Advocate for S. Harpal Singh with party in
person

CM APPL. NO. 18136/2012 in RFA 99/2012

CM APPL. NO. 18152/2012 in RFA 159/2012

These applications have been moved under Order XXII Rule 11 read with Rules 1 & 4 and Section 151 CPC, praying for substitution of the legal heirs of the deceased Shri Mangi Lal Jain, who is respondent No. 2 in RFA 99/2012 & appellant in RFA 159/2012. These applications, which have been filed by five applicants, particulars whereof are mentioned in paragraph 2 of these applications, stating that late Shri Mangi Lal Jain, who was arrayed as respondent No. 2 in the RFA 99/2012 & appellant in RFA 159/2012, died on 24th August, 2012 during the pendency of these appeals. A certificate of Dr. Ashwani Mehta, Consultant Cardiologist, Dharma Vira Heart Centre, Sir Ganga Ram Hospital, certifying that Shri Mangi Lal Jain died on 24.08.2012 has been annexed to these applications. Copy of the death certificate of Shri Mangi Lal Jain bearing No. 29277 issued by the Government of Nagaland, Department of Economics and Statistics in Form 6 has been filed by the applicants in connected RFA 159/2012 along with CM Appl. No. 18152/2012 moved in that matter. The proposed amended Memo of Parties has also been annexed to these applications.

Notice of CM 18136/2012 was issued on 19th October, 2012 and was duly served. On that date itself, counsel for the appellants in RFA 99/2012

accepted notice and stated that the appellants had no objection to this application. Counsel for the appellants also reiterates this position in Court today. Counsel for S. Harpal Singh, who is respondent No. 1 in RFA 99/2012 also states that he has received a copy of this application, and that he has no objection to the relief sought.

Issue notice of CM 18152/2012.

Counsel for the non-applicants accept notice and reiterate the aforesaid position.

In the circumstances, the legal heirs of late Shri Mangi Lal Jain, whose particulars are mentioned in the prayer clause itself, are directed to be substituted in place of deceased Shri Mangi Lal Jain. The amended Memo of Parties is taken on record.

The applications stand disposed off.

+ RFA NO. 99/2012 & CM APPL. NO. 18946/2012
+ RFA NO. 159/2012 & CM APPL. NOS. 5809/2012 & 18947/2012
+ RFA NO. 219/2012 & CM APPL. NOS. 9014, 9015/2012 & 18948/2012

These three appeals have arisen out of a common judgment and decree dated 17.12.2011 passed by the Additional District Judge, Central 9, Tis Hazari Courts, Delhi in Civil Suit No. 170/2011. During the pendency of the appeals, one of the parties, namely, Shri Mangi Lal Jain died on 24th August, 2012 and by a separate order passed in each of the appeals, his legal heirs have been brought on record. The appropriate amended Memo of Parties have also been taken on record.

The parties have jointly filed CM Appl. Nos. 18946, 18497 & 18948/2012 in RFA Nos. 99, 159 & 219/2012 respectively under Order XXIII Rules 1 and 3 read with Section 151 CPC stating that they have now

settled their disputes and differences inter se by virtue of a Memorandum of Understanding that has been executed between them on 31st October, 2012.

Mr. Rajendra Jain and Mr. Vinod Kumar Jain, two of the sons of late Shri Mangi Lal Jain, who have also been impleaded as parties in these appeals along with remaining legal heirs of late Shri Mangi Lal Jain, are also present in Court. Mr. Rajendra Jain has also filed an affidavit in support of the application stating that he has been duly authorized by the other legal heirs of late Shri Mangi Lal Jain, who are now arrayed as parties in these appeals by separate applications stand allowed. From amongst the other side, Shri Harpal Singh, Shri Vikas Khadaria and Shri Kamal Khurana are also present in person. Let their statements be recorded.

Statements of the parties have been recorded separately. As agreed between the parties, the impugned decree stands modified and the suit stands decreed in terms of Exhibit 'A'; which shall form part of the decree; inter alia, to the effect that all rights in the entire basement are decreed in favour of the third parties in Exhibit 'A', namely, Shri Vikas Khadaria and Shri Kamal Khurana; and the entire third floor with complete roof rights is decreed in favour of the second parties in Exhibit 'A', i.e. the legal heirs of late Shri Mangi Lal Jain, who have been subsequently impleaded as parties in these appeals.

The undertaking of the parties are accepted by the Court and they shall be bound by the same. The decree sheet be drawn accordingly.

All the appeals along with applications stand disposed off in terms of the above order.

J. H. Misra
SUDERSHAN KUMAR MISRA, J.

NOVEMBER 08, 2012
rd