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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CM(M) 664/2016 & CM Nos.24406-24408/2016

BALKISHAN

Through

..... Petitioner
Mr.Shekhar Dasi and Mohd.Talma,
Advs.

versus

AMARJEET KAUR & ORS

Through

..... Respondent

+ CM(M) 665/2016 & CM Nos.24412-24414/2016

AMRIT KAUR

Through

..... Petitioner
Mr.Shekhar Dasi and Mohd.Talma,
Advs.

versus

AMARJEET KAUR & ORS

Through

..... Respondent

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

13.07.2016

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1. By the present petition the petitioner seeks to impugn the order dated 25.1.2016 by which the trial Court allowed the application under Order 22 Rule 3 CPC read with Section 151 CPC to implead respondent No.5 Balwinder Singh as the LR of the deceased petitioner (in the Eviction Petition), namely, Shri Devender Singh.

2. Learned counsel appearing for the petitioner submits that the impugned order is erroneous inasmuch as firstly the said respondent No.5 had earlier moved an application for impleadment claiming that he was an

SPA holder of late Shri Devender Singh. Midway during the adjudication of the application he withdrew the said application. Now, a fresh application has been filed under Order 22 Rule 3 CPC explaining that respondents No.1 to 4 are the wife and children of late Shri Devender Singh. He avers that instead of impleading these respondents No.1 to 4 as LR's of deceased Devender Singh the impugned order has impleaded respondent No.5 Shri Balwinder Singh erroneously and wrongly. Secondly, he relies on the application filed by the respondents under Order 22 Rule 3 CPC to contend that as per the prayer clause the prayer in the application was to implead respondents No.1 to 4 and not respondent No.5. The impugned order has wrongly impleaded respondent No.5. He further submits that there was a delay in moving this application and hence alongwith the application under Order 22 Rule 3 CPC an application under Section 5 of the Limitation Act was filed which has not been dealt with by the impugned order.

3. In my opinion, there is no merit in the contentions of the petitioner. Paragraph 5 of the application filed by respondent under Order 22 Rule 3 CPC reads as follows:-

"5. That the LR's of Devender Singh have no objection of the name of SPA Sh.Balwinder Singh is substituted in place of Late Sh.Devender Singh as being a joint family and joint property if it will not cause any prejudice to the LR's of Late Sh.Devender Singh."

The said application is also signed by respondents No.1 to 4. In the light of these facts, the impugned order rightly impleaded respondent No.5 as the LR.

4. As far as the contention about the application under Section 5 of the Limitation Act is concerned, a perusal of the application filed by the

respondents under Order 22 Rule 3 CPC would show that it has been averred that the pending application has been moved within time and the delay in filing the present application was on account of pendency of the earlier application for which appropriate exclusion is sought under Section 14 of the Limitation Act. Accordingly, the said contention of the petitioner has no merits.

5. There is no merit in the present petitions. Both the petitions are dismissed.



JAYANT NATH, J

JULY 13, 2016

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