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

+ **CS(OS) 951/1997**

PREM CHAND GOEL Plaintiff

Through: Mr. Dinesh Garg and Ms. Rachna
Agrawal, Advocates with plaintiff in
person.

versus

AMAR CHAND GOEL AND ORS. Defendants

Through: Mr. Ashim Vachher and Mr. Vaibhav
Dabas, Advocate.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **15.01.2018**

**I.A. No. 9251/2017 (under Order 22 Rule 4(4) r/w Section 151
CPC, for bringing on record legal heirs of deceased defendant no.
4)**

1. By this application plaintiff seeks exemption to bring on record legal heirs of the deceased defendant no. 4, inasmuch as, defendant no. 4 appeared in Court after service, but did not file written statement and did not also appear thereafter for cross-examination of witnesses of plaintiff, and had already been proceeded ex-parte in terms of the order dated 19.10.2000 when issues were framed in the suit Accordingly, in view of the categorical language of Order 22 Rule 4(4) CPC, there is no requirement to bring on record the legal heirs of

CS(OS) 951/1997

deceased defendant no. 4 and therefore this application is allowed by ordering that the plaintiff need not bring on record or serve the legal heirs of deceased defendant no. 4.

2. I.A. is accordingly allowed and disposed of.

I.A. No. 9232/2017 (under Order 23 Rule 1 r/w Section 151 CPC, moved by plaintiff, for withdrawal of the suit and the claim) and CS(OS) 951/1997

3. In my opinion, no one can force a person to continue with a civil suit. If a person does not appear then obviously the civil suit will be dismissed in default. Therefore, there are no reasons why this application should not be allowed and plaintiff should not be allowed to withdraw the suit, inasmuch as, there is no liberty which is prayed for by the plaintiff to bring a suit on the same cause of action. It is clarified that though not so specifically stated in this application for withdrawal of the suit, plaintiff is withdrawing the suit as regards all the properties with respect to which reliefs were claimed in the suit plaint.

4. At this stage, counsel for defendant nos. 1 to 3 has no objection to the plaintiff withdrawing the suit, and accordingly this application is allowed and suit is disposed of as withdrawn.

VALMIKI J. MEHTA, J

JANUARY 15, 2018

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