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

+ RC.REV. 49/2017 & CM APPL. 4551/2017 & CM APPL. 48010/2018
(condonation of delay)

SHIELA VANTI & ANR Petitioners

Through Mr. Puneet Yadav, Adv.

versus

RAJIV JAIN Respondent

Through Mr. Abhishek Parthi, Mr. Aakash Duby
and Mr. Sachin Kumar, Advs.

+ RC.REV. 85/2017 & CM APPL. 7094/2017 CM APPL. 7268/2019
(condonation of delay)

SHIELA VANTI & ANR Petitioners

Through Mr. Puneet Yadav, Adv.

versus

MUKESH KUMAR Respondent

Through Mr. Abhishek Parthi, Mr. Aakash Duby
and Mr. Sachin Kumar, Advs.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **03.09.2019**

CM APPL. 48009/2018 (bringing LRs on record) in RC. REV. 49/2017
CM APPL. 7267/2019 (bringing LRs on record) in RC. REV. 85/2017

1. By these applications filed under Order 22 Rule 3 of the CPC, petitioner no. 2 seeks to bring on record the legal heirs of deceased petitioner no. 1 who expired on 06.09.2018.

2. Subject applications have been filed on 13.11.2018 within a period of 90 days of the death. The death certificate has been annexed along with applications.
 3. It is contended that petitioner no. 1 expired leaving behind one son and three daughters. Son has already been arrayed as petitioner no. 2 in the petitions. Three daughters namely – 1) Mrs. Raj Kumari (on account of a typographical error her name was mentioned as Raj Kumar), 2) Mrs. Neelam and 3) Mrs. Komal (also known as Veena).
 4. Learned counsel for the petitioner submits that the Mrs. Komal is also known as Komal. He submits that apart from the said legal heirs, there is no Class-I legal heirs of deceased-petitioner no. 1.
 5. Learned counsel for the petitioner further submits that on account of a bonafide error an application under Section 5 of the Limitation Act was filed even though the application under Order 22 Rule 3 CPC was filed within a period of 90 days. He seeks leave to withdraw the applications filed under Section 5 of the Limitation Act seeking condonation of delay.
 6. Since the application under Order 22 Rule 3 CPC have been filed within limitation, the applications under Section 5 of the Limitation Act are not necessary and as such the said applications are dismissed as withdrawn.
 7. Reply has been filed to the application under Order 22 Rule 3 CPC contending that the name of the third legal heirs is Mrs. Veena and she has been arrayed as Mrs. Komal. Learned counsel for the petitioner submits that Mrs. Komal is also known as Mrs. Neelam and the impleadment is sought under her official name of Mrs. Komal.
 8. Since the application under Order 22 Rule 3 CPC has been filed
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within limitation, accompanied with the death certificate and seeks to bring on record all the legal heirs of deceased petitioner no. 1, the application is allowed. Amended memo of parties is taken on record.

9. Learned counsel for the petitioner submits that in case the directions are issued to the trial court to expedite the trial, he shall not press his petitions.

10. Since the eviction petition was filed in the year 2015 and leave to defend was granted by order dated 15.11.2016, without commenting on the merits of the case and keeping in view of the totality of the facts and circumstances, the trial court is directed to expedite the trial and endeavour to conclude the same within a period of six months from the next date fixed before the trial court.

11. In view of the above directions, learned counsel for the petitioner seeks withdraw the petitions.

12. Accordingly, the petitions are dismissed as withdrawn. All rights and contentions of the parties are reserved.

SANJEEV SACHDEVA, J

SEPTEMBER 03, 2019

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