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

+ **CM (M) 1436/2019**

ANIL KUMAR SHARMA & ANR.

..... Petitioners

Through: Mr. Shahbaz Ahmad Naik, Mr.
Pawan Kumar and Mr. Sunil
Choudhary, Advocates.
(M:8510005021)

versus

KUNJ BIHARI LAL (DECEASED) THR LRS. Respondents

Through: Mr. P. K. Rawal and Mr. Tarun
Agarwal, Advocates for R-2, 3, 6 & 7.
(M:9810008623)
Mr. Anil Sharma and Mr. Aman
Bhardwaj, Advocates for R-8.
(M:9821752342)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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14.02.2020

CM APPL. 43493/2019 (exemption)

1. Allowed, subject to all just exceptions. Application is disposed of.

CM (M) 1436/2019 & CM APPL. 43494/2019 (stay)

2. All the Respondents have entered appearance. The present petition arises out of the impugned order dated 15th July, 2019 by which an application under Order XXII Rule 3 and Rule 9 read with Section 151 CPC and Section 5 of Limitation Act filed by the Petitioners herein - Shri Anil Kumar Sharma and Smt. Uma Sharma, was rejected on the ground that the same was barred by limitation.

3. The Plaintiff – Smt. Santosh Sharma expired on 9th February, 2018

and an application for impleadment of these legal heirs was filed on 1st June, 2018. The Trial Court has, vide order dated 15th July, 2019, already allowed the impleadment of Smt. Anita Kaushik, who relies upon the Will, which is stated to have been executed by the deceased Smt. Santosh Sharma on 29th January, 2018. The application filed by the present petitioners was however rejected due to delay. Ld. counsel for the Petitioners submits that the delay was only of approximately 20 days and prays that the same may be condoned.

4. On the other hand, ld. counsel for the Respondent No.8 submits that the Petitioners have no right to be impleaded as legal heirs, since as per the Will dated 29th January, 2018, the Respondent No.8 is the only beneficiary of the estate of the deceased.

5. The question as to whether the Respondent No.8 is the only beneficiary and whether the Petitioners have no right in the estate, is to be adjudicated by the Trial Court in the suit, which is pending. At this stage, this Court is merely dealing with the question as to whether the Petitioners ought to be impleaded as LRs or not. The Petitioners herein, who claim to be the children of Shri Shiv Kumar Sharma, the husband of the Plaintiff from his first wife, would be step-siblings of Respondent No.8. It cannot be stated at this stage that they do not have any right to be even heard in this suit. Who would be finally adjudicated as inheriting the estate is not a question that is to be gone into in the application for impleadment. That question is to be adjudicated at the final stage after evidence. At this stage, if the parties seeking impleadment have even some entitlement, being the children of the deceased, their impleadment ought to be permitted.

6. The impleadment is, accordingly, allowed subject to payment of

Rs.20,000/- as costs to be paid to the Respondent No.8. It is clarified that this Court has not gone into the *inter se* dispute between the legal heirs in any manner or adjudicated the genuineness or validity of the Will, or claims of the Petitioners.

7. With these observations, the present petition along with the pending application is disposed of. *Dasti.*

PRATHIBA M. SINGH, J.

FEBRUARY 14, 2020/dk