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

+ **CM(M) 810/2018 & CM APPLs. 28440/2018, 39729/2018**

GOPAL DAS (DECEASED) THR LRS Petitioner

Through: Ms. Savita Rustogi, Advocate (M-9811143746)

versus

KAMLA DEVI (DECEASED) & ORS. Respondents

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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11.02.2020

1. None appears for the Respondents herein/Plaintiffs (*hereinafter 'Plaintiffs'*) despite service. Even on the last date, adjournment was sought. A perusal of the impugned order shows that it decides three applications. One, under Order XXII Rule 4 CPC along with an application for condonation of delay under Section 5. Secondly, an application under Section 151 for recalling of the order dated 25th March, 2014.
2. Insofar as the application under Order XXII Rule 4 CPC is concerned, the delay in filing the same has been condoned and the two sons of the deceased - Sh. Gopal Das - Petitioner herein/Respondent No.1 (*hereinafter 'Respondent No.1'*) have been impleaded.
3. The grievance of the Id. counsel for the legal heirs of the Respondent No. 1 is that the deceased who passed away on 4th February, 2015 was also survived by his wife – Smt. Usha Rani. She submits that the wife also ought to have been impleaded by the Plaintiffs. However, since the information about the said LR was not given, there was no application for her

impleadment. The name of the wife has however been disclosed in the reply to the application. Considering the fact that there is no dispute that Smt. Usha Rani is the wife of Late Sh. Gopal Das, she is impleaded as Respondent No.1 (iii). Amended memo of parties be filed before the Trial Court.

4. Insofar as the application seeking recall of the order dated 25th March, 2014 is concerned, the submission of ld. counsel is that nine opportunities were given for leading evidence and finally one more opportunity has been granted to the Plaintiffs for leading evidence without any basis.

5. During the pendency of the present petition, Petitioner's evidence has been led and in fact even the Respondents' evidence has also commenced. Under these circumstances, this Court is not inclined to interfere with the said order. However, it shall be ensured that there is no delay caused by either of the parties in the disposal of the petition. The eviction petition was filed in 2007. An endeavour shall be made by the Trial Court to dispose of the petition within nine months from today.

6. With these observations, the petition and all pending applications are disposed of.

PRATHIBA M. SINGH, J.

FEBRUARY 11, 2020

Rahul A.S.