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

+ CM(M) 1073/2022 & CM APPL. 44180/2022, CM APPL. 44181/2022

NANOO

..... Petitioner

Through: Mr. Manish Gandhi, Adv.

versus

VIKAS SHARMA & ORS.

..... Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGEMENT (ORAL)

12.10.2022

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1. By order dated 28th July 2022, passed by the learned Civil Judge in CS 7867/2016 (*Devi Ram Sharma v. Nanoo*), the learned Civil Judge has allowed the impleadment application filed by the legal representatives of Devi Ram Sharma, who expired during the pendency of the proceedings in the suit.

2. Aggrieved thereby, Nanoo, the defendant in the suit, has approached this Court under Article 227 of the Constitution of India.

3. The case of the petitioner, in the present petition, is predicated on Section 214 of the Indian Succession Act, 1925, which reads thus:

“(1) No Court shall—



- (a) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming on succession to be entitled to the effect of the deceased person or to any part thereof, or
- (b) proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt, except on the production, by the person so claiming of—
 - (i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or
 - (ii) a certificate granted under section 31 or section 32 of the Administrator- General's Act, 1913 (3 of 1913), and having the debt mentioned therein, or
 - (iii) a succession certificate granted under Part X and having the debt specified therein, or
 - (iv) a certificate granted under the Succession Certificate Act, 1889 (7 of 1889), or
 - (v) a certificate granted under Bombay Regulation No. VIII of 1827, and, if granted after the first day of May, 1889 having the debt specified therein.”

4. Mr. Manish Gandhi, learned Counsel for the petitioner, sought to urge that, even if the respondents were permitted to be impleaded in CS 7867/2016 as legal heirs of erstwhile deceased plaintiff Devi Ram Sharma, no decree could be passed in their favour in view of Section 214 of the Indian Succession Act.

5. To my mind, Section 214 of the Indian Succession Act is really foreign to the aspect of impleadment of the legal representatives of the



deceased plaintiff. Section 214 does not, even obliquely, refer to the right of any party to be impleaded in the proceedings. The bar of Section 214 applies at the stage of passing of a decree.

6. The suit is still eons (in a manner of speaking) away from that stage. The impugned order merely permits the legal representatives of Devi Ram Sharma to be impleaded in the suit. In that regard, Order XXII Rule 3 of the CPC is a self-contained Code and Section 214 of the Indian Succession Act cannot derogate from the right of the legal representatives of the plaintiff to be impleaded in their place.

7. Mr. Gandhi, at this juncture, merely seeks a clarification that the permission granted to the respondents to implead themselves as legal representatives of the deceased Devi Ram Sharma in CS 7867/2016 should not operate as a fetter on the petitioner seeking to urge submissions on the basis of Section 214 of the Indian Succession Act.

8. It is clarified accordingly.

9. This Court merely endorses the decision to the impugned order dated 28th July 2022 of the learned Civil Judge, to the extent it permits impleadment of the respondents as the legal representatives of the deceased Devi Ram Sharma.

10. All other grounds of facts or law, available to the parties, including



the availability, of otherwise, of Section 214 of the Indian Succession Act would remain open to be urged and, if urged, would be considered by the learned Civil Judge on their own merits.

11. This petition is accordingly dismissed.

12. Miscellaneous applications also stand disposed of.

OCTOBER 12, 2022

dsn

C. HARI SHANKAR, J.

