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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 28/2017, I.A. 20460/2015, I.A. 2/2016, I.A. 2794/2017**
& I.A. 1950/2019
IPAS & ANR.Plaintiffs

Through: Mr. Shaurya Pandey, Adv.
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versus

PARKASH ENTERPRISES & ANR.Defendants
Through: None

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
14.10.2024

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1. The present matter has been placed before this Court in view of order dated 27th August, 2024 passed by learned Joint Registrar (Judicial). The order dated 27th August, 2024, reads as under:

“Since April’2023, ld. Counsel for the plaintiff has been making efforts to serve the LR’s of defendant no. 2 and to implead them. However, as is reflected from the previous order sheets, ld. Counsel has not been receiving any instructions from the plaintiffs itself. Subsequently i.e. on the last date, Court notice was issued to the plaintiffs. However, the court notice sent to plaintiff no. 2 which is operating from London could not be served and has been returned. The service report on the court notice issued to plaintiff no. 1 which is situated in US, is still awaited.

2. In view of the above, put up before the Hon’ble Court on 14.10.2024, for further directions.”

2. Perusal of the various order sheets show that defendant no. 2, has already expired. As per the Memo of Parties, defendant no. 2 is the



proprietor of defendant no. 1.

3. Since April, 2023, no steps have been taken by the plaintiff to implead the Legal Representatives (“LRs”) of the deceased defendant no. 2, who is the proprietor of defendant no. 1.

4. The order dated 13th April, 2023 records the directions of this Court to the learned counsel appearing for the plaintiff, whereby, he was directed to take steps for impleading the LR's of defendant no.2.

5. The order dated 13th April, 2023, reads as under:

“1. Mr. Jai Kush Hoon, Advocate, appears pursuant to the Court notice issued on 13th February, 2023. He submits that he had contacted the son of the deceased defendant no.2. However, he did not receive any instructions. Accordingly, he seeks to withdraw his Vakalatnama.

2. Counsel has provided the contact details of the son of deceased defendant no.2 to the counsel for the plaintiff.

3. Counsel for the plaintiff shall take steps for impleading the legal representatives of the defendant no.2, if so advised.

4. In view of the aforesaid, Mr. Jai Kush Hoon, Advocate, need not appear in the matter any further.

5. List before the Joint Registrar on 20th July, 2023.”

6. The order dated 20th September, 2023 records that the learned counsel appearing for the plaintiff had taken further opportunity to take steps for bringing on record the LR's of defendant no. 2.

7. The order dated 20th September, 2023, reads as under:

“Ld. Counsel for the plaintiff prays for yet another opportunity to take steps for bringing on record the LR's of defendant no. 2. Let the appropriate application be filed within two weeks failing which heavy cost shall ensue.

Put up for further proceedings on 08.12.2023.”

8. Subsequently, order dated 08th December, 2023 records the



submission of learned counsel appearing for the plaintiff that their office has not been able to receive the necessary instructions from the plaintiff, for bringing on record the LR's of deceased defendant no.2.

9. The order dated 08th December, 2023, reads as under:

“Ld. Counsel for the plaintiff submits that their office still has not able to receive necessary instructions from the plaintiff for bringing on record the LR's of defendant no. 2. Some more time is prayed for to do the needful as a measure of final opportunity. On the last date it was made clear that if the application is not moved within two weeks, heavy cost shall be imposed on plaintiff.

On the request of ld. Counsel for the plaintiff, final opportunity is granted to take steps to bring on record the LR's of defendant no. 2 within six weeks (as the plaintiff is based in Europe) subject, however, to cost of Rs.10,000/- to be paid to Bharat ke veer fund (online portal).

Put up for completion of pleadings on 11.03.2024.”

10. The order dated 11th March, 2024, again records the statement of learned counsel appearing for the plaintiff, that despite efforts to seek necessary instructions to bring on record the LR's of defendant no.2, plaintiff has not given the necessary instructions.

11. The order dated 11th March, 2024, reads as under:

“Ld. Counsel for the plaintiff submits that despite best efforts to seek necessary instructions to bring on record the LR's of defendant no. 2, plaintiff has not given the necessary instructions. Ld. Counsel further submits that their office had even sent someone to physically get the details of the LR's of defendant no. 2 at the address given in the memo of parties but the said premises was found closed. Plaintiffs are resident of US and UK respectively. Issue Court notice to the plaintiffs, through speed post only.

Put up for further proceedings on 13.05.2024.”

12. Finally, vide order dated 27th August, 2024, the matter has been placed before this Court, noting that despite various opportunities, the



plaintiff has not impleaded the LR's of deceased defendant no.2.

13. This Court notes that there are no other defendants, than the defendant nos. 1 and 2, the deceased defendant no. 2, being the proprietor of defendant no.1.

14. Today, learned counsel appearing for the plaintiffs again seeks accommodation.

15. However, considering the various opportunities already granted to the plaintiffs since April, 2023, there is no justification for granting any further opportunity to the plaintiffs.

16. The conduct of the plaintiffs clearly manifests that the plaintiffs are no longer interested in pursuing the present matter. Despite expiry of defendant no.2, no steps have been taken to implead the LR's of defendant no.2, who would also have represented defendant no.1, as deceased defendant no.2, was the proprietor of defendant no.1.

17. Considering the records before this Court, it is clear that the plaintiffs are not interested in prosecuting the present matter any further.

18. Accordingly, present suit, along with the pending applications, is dismissed for non-prosecution.

MINI PUSHKARNA, J

OCTOBER 14, 2024/kr