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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of decision: 06th September, 2024***
+ **CM(M) 3346/2024 & CM APPL. 51885-51886/2024**

PAWAN BAJAJ & ORS.

.....Petitioners

Through: Mr. Prosenjit Benerjee with Mr.
Tarang Gupta and Mr. Kartikeya
Sharma, Advocates.

versus

**GOPAL KRISHAN (DECEASED) THROUGH LEGAL
REPRESENTATIVES & ORS.**

.....Respondents

Through: Mr. Naveen Yadav, Advocate for R-1.
Mr. Sumeet Thakur, Advocate for R-2
with R-2 in person.
Mr. Ankur Miahindru with Mr. Rohan
Taneja, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. A Civil Suit was filed by one Mr. Gopal Krishan against Mr. Rajinder Pal Bajaj (defendant No. 1), Ms. Chander Prabha (defendant No. 2) and others.
2. The above suit, registered as CS SCJ No. 7535/2016, had been instituted way back in the year 1985. It was seeking declaration, permanent and mandatory injunction and rendition of accounts.
3. The plaintiff claimed himself to be the owner of property bearing No. 4B/35, Old Rajinder Nagar, New Delhi and has taken the objection about the manner in which it was sold by the defendant No. 1 to defendant No. 2.



4. During the pendency of the above suit, the defendant No. 1 did not raise any qualm with respect to the fact that he had voluntarily sold the property to defendant No. 2
5. Eventually, the abovesaid suit was dismissed.
6. The plaintiff filed First Appeal (RCA DJ No. 78/2017) which is pending adjudication before the Court of learned District Judge-07, Central District, Tis Hazari Courts, New Delhi.
7. During the pendency of the abovesaid appeal, unfortunately, Mr. Rajinder Pal Bajaj (defendant No. 1) in the main suit died on 26.10.2020.
8. The controversy in question has arisen thereafter.
9. Said defendant, reportedly, left ten legal heirs including Mr. Praveen Pal Bajaj.
10. Quite evidently, all the siblings are on the same page except for Mr. Praveen Pal Bajaj and, therefore, an issue cropped up before the learned Appellate Court as to who all should be impleaded as surviving legal representatives to take care of the interest left behind by deceased defendant No. 1 in relation to the suit in question.
11. Since there were conflicting stands taken by the parties, the learned Appellate Court requested the learned Trial Court to hold an inquiry in terms of Order XXII Rule 5 CPC.
12. Learned Trial Court conducted an inquiry and submitted its report dated 11.10.2023. The said report was to the effect that said Mr. Praveen Pal



Bajaj had acted against the interest of deceased defendant No. 1 and, therefore, he should not be made a legal representative in the appeal in question.

13. However, the learned First Appellate Court, keeping in mind the overall facts of the case and the fact that the case was only at the stage of arguments on appeal and no fresh pleading or evidence was required and also taking note of the statement which Mr. Praveen Pal Bajaj made before it, permitted him also to be impleaded as one of the legal representatives.

14. Such order is under challenge.

15. After hearing arguments for some time, learned counsel for the petitioners, who represents the other five petitioners, states that though the statement had been made by Mr. Praveen Pal Bajaj before the learned First Appellate Court, he would be contented and satisfied, in case, Mr. Praveen Pal Bajaj, who is present before this Court, reiterates and undertakes that he would take the stand which was taken by his father in the written statement, including what is stated in para 4 of the written statement which had been filed when the abovesaid suit was pending adjudication.

16. The contents of statement dated 25.04.2024, which he had made before the learned First Appellate Court, have been perused and in such statement though Mr. Praveen Pal Bajaj (respondent No. 2 herein) had undertaken that he would not take any stand contrary to the written statement and the defence taken by his deceased father, in order to repel any apprehension or uncertainty in the minds of the other legal representatives, respondent No. 2-Mr. Praveen Pal Bajaj reiterates the same before this Court and undertakes that whatever



had been stated by his father in the written statement, including para-4 of the written statement, is not disputed by him in any manner whatsoever and he does not even dispute the deposition made by his father which was in synchronization with the stand taken by him in the written statement. So much so, Mr. Praveen Pal Bajaj also states that though he has already filed a suit seeking partition, as far as the property bearing No. 4B/35, Old Rajinder Nagar, New Delhi is concerned, such property has not and would not be made subject matter of the abovesaid partition suit i.e. CS No. SCJ No. 7535/2016.

17. In view of the abovesaid statement, learned counsel for the petitioner submits that the petitioners are left with no grievance with respect to the order impugned before this Court and prays for its disposal accordingly.

18. Petition stands disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

SEPTEMBER 6, 2024/sw