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IN THE HIGH COURT OF DELHI AT NEW DELHI

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FAO(OS) 129/2022, CM APPL. 48911/2022 –Stay & CM APPL.
48913/2022 –Delay 15 days (RF)

PRINCE VIJIT SINGH

.....Appellant

Through: Mr.D.D.Singh, Ms.Seerat Deep Singh
& Ms.Parpuneet Kaur, Advs.

versus

LT. COL SAWAI BHAWANI SINGH (NOW DECEASED)
THROUGH LEGAL HEIRS AND ORS.Respondents

Through: Ms.Ramni Taneja & Ms.S.Rohini,
Advs. for R-1 and 6.

Mr.Abhishek Kumar Rao & Mr.Shailesh Suman,
Advs. for R-2 and 3.

Mr.Rajiv Bahl, Adv. for R-4.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE RENU BHATNAGAR

ORDER

25.02.2025

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1. The present appeal under Section 10 of the Delhi High Court Act, 1966, seeks to assail the order dated 22.08.2022 passed by the learned Single Judge in CS(OS) 870/1986. Vide the impugned order, the learned Single Judge has dismissed the application under Order XXII Rule 3 of the Code of the Civil Procedure, 1908, preferred by the appellant seeking his impleadment as the legal representative of his father/ plaintiff no.2 namely Maharaj Prithvi Raj, who had expired during the pendency of the suit.
2. From a perusal of the impugned order, we find that the learned Single Judge has *interalia* observed that since the appellant/ applicant had



already been arrayed as defendant no.5 in the suit, there was no requirement for him to be impleaded once again as the legal representative of plaintiff no.2, his deceased father.

3. After some arguments, learned counsel for the appellant submit that even though the learned Single Judge has failed to appreciate that in a partition suit, even the appellant as a defendant had a right to make submissions as a co-plaintiff, the appellant would be satisfied if he is granted liberty to move an appropriate application for transposition as a plaintiff in the pending suit. He, therefore, prays that it may be made clear that in case, the appellant moves an application for transposition as plaintiff in the pending suit, the same would be considered by the learned Single Judge on its own merits and not rejected on the basis of the impugned order.
4. In the light of the aforesaid, the appeal alongwith pending applications is, accordingly, disposed of by granting liberty to the appellant to move an application seeking transposition as a co-plaintiff making it clear that the said application, as and when moved, will be considered on its own merits.

REKHA PALLI, J

RENU BHATNAGAR, J

FEBRUARY 25, 2025

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