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

+ RFA 368/2016

SUDARSHAN KUMAR SHARMA Appellant

Through: Mr. R.P. Pandey, Advocate for
LRs of appellant No. 1.

Mr. Jai Wadhwa, Advocate
[DHCLSC] for LRs of deceased
Ramesh Chander Sharma.

Mr. Aayush Agarwala, Advocate
in CM APPL. 39147/2022.

versus

RAJENDER KUMAR SHARMA & ANR Respondent

Through: Mr. Raj kumar, Ms. Chanchal
Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **04.10.2023**

**CM APPL. 9392/2020 (for bringing on record the LRs of appellant) &
CM APPL. 39147/2022 (for bringing legal heirs of deceased appellant)**

1. CM Appl. 9392/2020 has been filed for substitution of the original appellant-Mr. Sudarshan Kumar Sharma by his legal representatives and CM Appl. 39147/2022 has been filed for substitution of Mr. Ramesh Chand Sharma, one of the legal heirs of the original appellant, by his legal representatives.

2. The appeal is directed against a judgment and decree dated 11.12.2015, by which the original plaintiffs, being Mr. Sudarshan Kumar Sharma and his wife Ms. Kailash Wanti, sought a decree for possession of the suit property [IX/1653, Main Road, Dakshini Gandhi Nagar, Delhi] mesne profits and damages against one of their sons, Mr. Rajender Kumar Sharma and his wife Ms. Ritu Bala Sharma, who are arrayed as



respondent Nos. 1 and 2 respectively in this appeal.

3. Ms. Kailash Wanti died during the pendency of the suit. By the impugned judgment, the learned Trial Court held that the suit had abated by reason of death of Ms. Kailash Wanti.

4. During the pendency of the appeal, the original appellant also passed away on 03.01.2020, and is survived by four sons [including respondent No. 1], three daughters, and the wife and children of a predeceased son. The list of the original appellant's legal heirs is mentioned in paragraph 2 of CM APPL. 9392/2020, as follows:-

a)	Ramesh Chand Sharma	Son
b)	Dilbag Ray Sharma	Son
c)	Harish Kumar Sharma	Son
d)	Rajender Kumar Sharma	Son
e-1)	Renu Sharma wife of Shri Ashok Kumar Sharmas	daughter in law
e-2)	Prem Kumar Sharma minor son of Ashok Kumar Sharma,	grandson
e-3)	Isha Sharma minor daughter of Ashok Kumar Sharma	granddaughter
F)	Smt. Sudesh	daughter
g)	Smt. Anju	daughter
h)	Smt. Santosh	daughter."

5. The applicants in these applications claim that the suit property has been bequeathed by late Ms. Kailash Wanti upon late Mr. Sudarshan Kumar Sharma by way of a registered will dated 04.05.2011, and by late Mr. Sudarshan Kumar Sharma upon two of his sons, namely Mr. Ramesh Chand Sharma and Mr. Dilbagh Ray Sharma, and one grandson, namely Mr. Gulzar Rai Sharma [son of Ms. Sudesh] by way of will dated 22.12.2017.

6. In CM APPL. 9392/2020, substitution has been sought in the name of the aforesaid three beneficiaries under the will of the original appellant



dated 22.12.2017.

7. By order dated 28.01.2022, it was recorded that the legal representative Nos. c, e-1 to e-3, f, g and h, mentioned in CM APPL. 9392/2020, have no objection to the application being allowed.

8. During the pendency of CM APPL. 9392/2020, one of the sons of the original appellant, namely Mr. Ramesh Chand Sharma, died on 21.05.2022, leaving behind his wife and two daughters, whose names and addresses are mentioned in paragraph 3 of CM APPL. 39147/2022, as follows:-

- “i) *Suman Lata Sharma*
W/o Late Sh. Ramesh Chander Sharma
R/o 9/1653, Main Road, Near Gandhi Police Station
Gandhi Nagar, East Delhi, Delhi-110031
- ii) *Varsha Sharma*
D/o Late Sh. Ramesh Chander Sharma & Smt. Suman Lata Sharma
R/o IX/1653, Main Gandhi Nagar Road, Gandhi Nagar,
Shahdara
S.O. East Delhi, Delhi-110031.
- iii) *Punam Sharma*
D/o Late Sh. Ramesh Chander Sharma & Smt. Suman Lata Sharma
R/o 9/1653, Main Gandhi Nagar Road, Gandhi Nagar, S.O.
East Delhi, Delhi-110031”

9. Mr. Raj kumar, learned counsel for the respondents, raises an objection to these applications by stating that respondent No. 1 is also a legal heir of late Mr. Sudarshan Kumar Sharma and is entitled to represent him in the present appeal. I am of the view that this contention is untenable as respondent No. 1 was a defendant in the suit, and proposes to contest the present appeal as well. Thus, no question of substitution of respondent No. 1 as an appellant arises in the present appeal.



10. For the aforesaid reasons, the applications are disposed of with the direction that the original appellant will be substituted by the following heirs and legal representatives:

- I. (a) Ms. Suman Lata Sharma, wife of late Mr. Ramesh Chand Sharma (deceased son of the original appellant);
(b) Ms. Varsha Sharma, daughter of late Mr. Ramesh Chand Sharma (deceased son of the original appellant);
(c) Ms. Punam Sharma, daughter of late Mr. Ramesh Chand Sharma (deceased son of the original appellant);
- II. Mr. Dilbagh Ray Sharma, son of the original appellant; and
- III. Mr. Gulzar Rai Sharma, son of Ms. Sudesh, daughter of the original appellant, resident of *IX/1653, main road, Gandhi Nagar, Delhi – 110031*.

11. The substituted appellants are directed to file an amended memo of parties within one week from today.

12. Mr. Jai Wadhwa, learned counsel, who had filed CM APPL. 39147/2022, upon instructions from the Delhi High Court Legal Services Committee, submits that the matter has now been marked to Mr. Aayush Agarwala, learned counsel. Mr. Wadhwa is, therefore, discharged.

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The appeal is already admitted.

The Registry is directed to list the appeal in the “Regular List” in its own turn.

PRATEEK JALAN, J

OCTOBER 4, 2023

“*Bhupi*”/