

All The Parties Under Order Xxiii Rule 3 ... vs Shri Gyan Chand Garg And Ors on 6 September, 2021

Author: Asha Menon

Bench: Asha Menon

\$~Suppl. -18

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(OS) 626/2018, I.As.11193/2021(Joint Application on behalf of all the parties under Order XXIII Rule 3 read with Section 133 CPC for recording of compromise and for passing the decree in terms thereof), 11194/2021(by the plaintiff under Order XXIII Rule 4 read with Section 151 CPC, 1908 for substitution of heirs of the deceased defendant no.2, namely, Mr. Santu Sharma Goyal) & 11195/2021(by the plaintiff under Section 5 of Limitation Act for seeking condonation of delay in filing the application under Order XXII Rule 4 read with Section 151 CPC)

SANTU SHARMA

Through: Mr. Rajat Aneja, Ms. Vaishali Aneja and Ms. Rajula, Advocate

versus

SHRI GYAN CHAND GARG AND ORS.

Through: Mr. Abhinav Tyagi, Advocate for defendant Nos. 1 to 12. Mr. Mayank Goel, Advocate for Defendant No. 13

CORAM:

HON'BLE MS. JUSTICE ASHA MENON
ORDER

% 06.09.2021

[VIA VIDEO CONFERENCING]

I.A. No. 11195/2021(by the plaintiff under Section 5 of the Limitation Act for seeking condonation of delay in filing the application under Order XXII Rule 4 read with Section 151 CPC)

1. Mr. Rajat Aneja, learned counsel for the plaintiff has submitted that the delay in filing the present application has occurred on account of lack of knowledge of the demise of Shri Krishan Goyal.

2. For the reasons stated in the application, the same is allowed and the delay in filing the application under Order XXII rule 4 CPC is condoned.

3. The application stands disposed of.

I.A. No. 11194/2021(by the plaintiff under Order XXII Rule 4 read with Section 151 CPC, 1908 for substitution of legal heir's of the deceased defendant no.2, namely, Shri. Krishan Goyal)

1. It is informed that defendant No. 2/ Shri Krishan Goyal has expired on 25th October, 2020 leaving behind three Class I legal heirs namely; (i) Preeti Goyal (wife); (ii) Ms. Reena Mittal (Daughter); and (iii) Ms. Arti Dhall (Daughter).

2. For the reasons stated in the application, the same is allowed and the legal heirs of Late Shri Krishan Goyal are substituted in place of Shri Krishan Goyal.

3. Amended memo of party has been filed and the same is ordered to be taken on record.

4. The application stands disposed of.

I.As.11193/2021(Joint Application on behalf of all the parties under Order XXIII Rule 3 read with Section 151 CPC for recording of compromise and for the decree in terms thereof).

1. This application under Order XXIII Rule 3 CPC has been signed by all the parties to the suit and has been filed alongwith their individual affidavits.

2. Learned counsel for the plaintiff submits that pursuant to the discussions and negotiations, the parties have agreed that the plaintiff would transfer his 11% undivided share in the Suit Property vested with him under the Sale Deed dated 17th March, 2012, executed by defendant No. 1 and 2, in favour of the defendant No. 1 (Shri Gyan Chand Garg) and the three Class I Legal Heirs of defendant No. 2 (Late Shri Krishan Goyal). It is submitted that with this transfer, all inter se disputes will come to an end and the defendant No. 1 and defendant No. 2 through LRs will also have no claim or objections to the title of the remaining defendant Nos. 3 to 13.

3. Learned counsel for the plaintiff further submits that on account of interim orders directing the parties to maintain status quo in respect of the Suit Property, the transfer could not be carried out and vide this application, he has also sought modification of the injunction (status quo) order dated 22nd December, 2018 in order to enable the plaintiff to transfer/sell his 11% undivided share in favour of the defendant No. 1 and the three legal representatives of the deceased defendant No. 2, to give effect to the terms of the compromise.

4. Heard the submissions of Mr. Rajat Aneja, learned counsel for the plaintiff and Mr. Abhinav Tyagi, Advocate for defendant No. 1 to 12 and Mr. Mayank Goel, Advocate for defendant No. 13.

5. For the reasons stated in the application, the same is allowed and the suit is disposed of in terms of the compromise arrived at between the parties, which is mentioned in paras 11 to 13 of the application (I.A. No. 11193/2021).

6. The parties shall remain bound by the terms of the Settlement Agreement entered into between the parties. The interim order dated 22nd December, 2018 stands vacated.

7. The parties are at liberty to revive the suit in the event, the terms of settlement are not honored for any reason whatsoever.

8. At this stage, learned counsel for the plaintiff requests for refund of court fees under Section 16A of the Court Fees Act. Learned counsel for the plaintiff is at liberty to move an appropriate application for refund of court fee, if the settlement is executed.

9. The suit is disposed of alongwith pending applications in terms of the settlement. Decree sheet be prepared accordingly.

10. The order be uploaded on the website forthwith.

ASHA MENON, J SEPTEMBER 06, 2021 pkb