



2025:DHC:7244



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

% *Date of Decision: 21st, August, 2025*

+ CM(M) 1119/2025 & CM APPL. 37938/2025

MAHAVIR SINGH & ORS.

.....Petitioner

Through: Mohit Khanna, Advocate along with
petitioner no. 2 (Through VC)

versus

PREMLATA & ANR.

.....Respondent

Through: Mr. Abhay Mani Tripathy, Mr.
Hemant Gulati and Mr. Bharat
Kashyap, Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Suit was instituted against one Mr. Rajbir Singh and the plaintiffs were seeking recovery of Rs. 11 lacs approximately from him.
2. However, before he could be served, unfortunately, he expired.
3. Plaintiffs, accordingly, moved an application seeking impleadment of his LRs and notice was duly sent to them.
4. Such LRs appeared before the learned Trial Court and participated in the proceedings and were asked to file written statement.
5. The direction in this regard is found to be recorded in order dated 15.05.2024.
6. Fact remains that since they did not file written statement, their right to file written statement was closed while also observing that they did not want to contest the suit.
7. The sole grievance of the petitioners i.e. LRs of deceased defendant is



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to the effect that though they had appeared in connection with application filed under Order XXII Rule 4 CPC, they were unable to file any written statement as they were never supplied with copy of the plaint and relevant documents.

8. If that was really so, ideally speaking, they should have immediately made appropriate request before the learned Trial Court apprising the learned Trial Court about the aforesaid vital aspect. Unfortunately, no such request was made and they merely sought review of order dated 15.05.2024.

9. Learned counsel for respondents/plaintiffs submits that while supplying copy of the application moved by them under Order XXII Rule 4 CPC, they had also supplied copy of plaint on 23.11.2023 which would be obvious from WhatsApp communication.

10. A careful perusal of all the order-sheets would, however, indicate that it has, nowhere, been recorded that copy of plaint was, ever, directed to be supplied to LRs of the deceased defendant. Obviously, the service, in any case, has to be meaningful service in terms of judgment passed by this Court in *Mr. Rajesh Kathpal Vs. M/s Shubh Steel: 2022 SCC OnLine Del 3403*.

11. This Court is also mindful of the fact that, in the interregnum, the defendant had expired and his LRs were appearing in relation to application under Order XXII Rule 4 CPC.

12. Keeping in mind the overall facts and circumstances of the case, the present petition is disposed with direction to petitioners i.e. LRs of deceased defendant to their file written statement within ten days from today before the learned Trial Court with advance copy to plaintiffs.

13. Next date before the learned Trial Court is stated to be 27.09.2025 and it will be entirely upto the plaintiffs, if they want to file any replication to the



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aforesaid written statement.

14. However, for causing delay in the matter and for not making appropriate request in this regard before the learned Trial Court despite the fact that they were duly represented before the learned Trial Court, petitioners herein are also burdened with cost of Rs. 20,000/- which shall be paid to the plaintiff on the date fixed i.e. 27.09.2025.

15. Needless to say, in case petitioners do not file written statement within the aforesaid period of ten days and, thereafter, if they do not clear the cost on 27.09.2025, they would not be permitted to participate in the proceedings and their right to file written statement would be deemed to be closed.

16. It is also expected that petitioners would extend their best co-operation and assistance to the learned Trial Court and would not seek any unnecessary adjournment so that the learned Trial Court is in a position to dispose of the suit in question, as expeditiously as possible.

(MANOJ JAIN)
JUDGE

AUGUST 21, 2025/dr/shs