



2026:DHC:8896



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IN THE HIGH COURT OF DELHI AT NEW DELHI*Reserved on: 30 September 2026****Pronounced on: 09 October 2026**# **CNR No. DLHC010241502019**+ **CS(OS) 274/2019, I.A. 7607/2019, & I.A 27146/2026****QUADRA STRAT TRADE SERVICES LTD.Plaintiff****Through: Mr. Rajiv Bajaj, Mr. Naman
Arora and Mr. Vishant
Prakash, Advs.****Versus****MAHINDER KUMAR MADANDefendant****Through:****Mr. UTKARSH MADAN Applicant-Intervener****Through: Mr. Prashant Batra, Adv.****CORAM:****HON'BLE MR. JUSTICE VINOD KUMAR****ORDER****% 09.10.2026****VINOD KUMAR, J****I.A. 27145/2026 (Impleadment)**

1. This is an application filed by the legal representatives No. 3 of the deceased defendant-Sh. Utkarash Madan under Order I Rule 10 read with Order XXII Rule 4(2) and Section 151 of Code of Civil Procedure, 1908, (hereinafter, 'CPC') seeking his impleadment in his independent capacity as well as taking his written statement on record. Before considering the application, it would be appropriate to briefly state the facts giving rise to the present proceedings.

Signature Not Verified

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KUMAR VARS
Signing Date: 12.10.2026
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I.A. no. 27145/2026 in CS (OS) 274/2019

Page 1 of 8



2. As per the plaint, the plaintiff had entered into an agreement with the deceased defendant in respect of property ie. 1/124, W.H.S., Kirti Nagar, New Delhi-110015 (hereinafter, “suit property”) for a total sale consideration of Rs. 2 crores.

3. Out of the total sale consideration of Rs. 2 crores, a sum of Rs. 1,98,00,000/- had already been paid by the plaintiff to the deceased defendant-late Sh. Mahinder Kumar Madan. The plaintiff further claims to have paid stamp duty of Rs. 12,00,000/- and deposited a sum of Rs. 2,00,000/- towards TDS in respect of the said transaction.

4. According to the plaintiff, despite receipt of the aforesaid amounts, deceased defendant failed and neglected to execute and register the sale deed in favour of the plaintiff. Consequently, the present suit was instituted by the plaintiff seeking specific performance and permanent injunction of the suit property.

5. During the pendency of the suit, the original defendant expired. Thereafter, the plaintiff filed an application (I.A. No. 15756/2025) under Order XXII Rule 4 of CPC seeking impleadment of his son and her daughter namely Sh. Harsh Madan and Ms. Komal Arora as his legal representatives.

6. During the pendency of the said application, the legal representatives of the deceased defendant filed their reply, bringing to the notice of the court that the deceased defendant had executed a Will dated 18.07.2019, whereby he had purportedly bequeathed his rights, title and interest in the suit property in favour of his grandson, namely the present Applicant-Sh. Utkarsh Madan.



7. The application under Order XXII Rule 4 CPC was thereafter allowed by Joint Registrar vide order dated 10.11.2025 and Sh. Harsh Madan, Ms. Komal Arora and Sh. Utkarsh Madan were directed to be substituted as the legal representatives of the deceased defendant. The relevant portion of the order dated 10.11.2025 reads as under:

“6. In view of the above discussion, the LRs of the defendant namely Mr. Harsh Madan (son) and Ms. Komal Arora (daughter) and Mr. Utkarsh Madan (grandson) are substituted in place of defendant. Requisite entry be made in respect of LR of defendant. Plaintiff is directed to file amended memo of parties within two weeks accordingly.”

8. The applicant, being aggrieved by the aforesaid order dated 10.11.2025 to the limited extent that he was impleaded only in his capacity of a legal representative of the deceased defendant, whereas his impleadment should be in his independent capacity.

9. Learned counsel for the applicant submits that by virtue of Will dated 18.07.2019 executed by the deceased defendant, the applicant claims an independent right, title and interest in the suit property, which is distinct from the rights and defence available to him merely in his capacity as a legal representative of the deceased defendant.

10. It is submitted that the plaintiff's claim is founded upon an oral agreement between the plaintiff and the deceased defendant in respect of the suit property. After the death of the defendant, the applicant claims to have acquired a testamentary interest in the suit property pursuant to the Will dated 18.07.2019. It is, therefore, submitted that the applicant is a necessary and proper party and ought to be impleaded in his independent capacity.



11. Relying upon the judgement dated 10.08.1972 passed by the Hon'ble Supreme Court in the case of **Vidyawati v. Man Mohan & Ors.**, NC: 1995 INSC 321, learned counsel for the applicant submits that legal representative claiming an independent right, title or interest in the suit property should be impleaded as an independent defendant and not merely as a legal representative of the deceased, so as to enable such person to set up the independent right, title and interest and resist the claim made by the Plaintiff or challenge the decree that may be passed in the suit. The relevant paras of the said judgement are reproduced below:

"3. It is seen that the petitioners' claim of right, title and interest entirely rest on the will said to have been executed by Champawati in favour of the first defendant and herself. It is now admitted across the Bar that the first defendant had life interest created under the will executed by Champawati. Therefore, the said interest is co-terminus with his demise. Whether the petitioner has independent right, title and interest de hors the claim of the first defendant is a matter to be gone into at a latter proceedings. It is true that when the petitioner was impleaded as a party-defendant, all right under Order 22 Rule 4(2), and defences available to the deceased defendant become available to her. In addition, if the petitioner had any independent right, title or interest in the property then she had to get herself impleaded in the suit as a party defendant in which event she could set up her own independent right, title and interest, to resist the claim made by the plaintiff or challenge the decree that may be passed in the suit. This is the view the court below has taken rightly.

*4. This Court in **Bal Kishan v. Om Parkash and Anr.:** [1986] 3 SCR 622 has said thus :*

The Sub-rule (2) of Rule of Order 22 authorised the legal representative of a deceased defendant to file an additional written statement or statement of objections raising all pleas which the deceased-defendant had or could have raised except those which were personal to the deceased-defendant or respondent.



5. The same view was expressed in **Jagdish Chander Chatterjee and Ors. v. Sri Kishan and Anr.:** [1973] 1 SCR 850 wherein this Court said :

The legal representative of the deceased respondent was entitled to make any defence appropriate to his character as legal representative of the deceased respondent. In other words, the heirs and the legal representatives could urge all contentions which the deceased could have urged except only those which were personal to the deceased. Indeed this does not prevent the legal representative from setting up also their own independent title, in which case there could be no objection to the court impleading them not merely as the Lrs. of the deceased but also in their personal capacity avoiding thereby a separate suit for a decision on the title.

6. This being the position in law, the view of the court below is perfectly legal. It is open the petitioner to implead herself in her independent capacity under Order 1 Rule 10 or retain the right to file independent suit asserting her own right. We do not find any error of jurisdiction or material irregularity committed in the exercise of jurisdiction by the court below warranting our interference. The SLP is, accordingly, dismissed.”

12. Hence, it is prayed that the applicant should be impleaded as an independent defendant and not as a legal representative of the deceased defendant.

REPLY OF THIS APPLICATION

13. Learned counsel for the plaintiff opposes the present application by contending that the applicant has already been impleaded as a legal representative of the deceased defendant vide order dated 10.11.2025. The applicant, therefore, cannot seek to reopen the issue of his impleadment by way of the present application.

14. It is submitted that the “legal heir” is very different from “legal representative”. It is further submitted that the mere fact that the applicant has been impleaded vide order dated



10.11.2025 as a legal representative of the deceased defendant does not, by itself, establish that he has inherited or succeeded to the suit property as legal heir.

15. In this regard, reliance has been placed upon Section 3(f) of the Hindu Succession Act, 1956, which defines the expression “legal heir” as under:

“(f) “heir” means any person, male or female, who is entitled to succeed to the property of an intestate under this Act;”

16. Whereas, Section 2(11) of CPC defines an “legal representative”, which is reproduced as under:

“(11) “legal representative” means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued;”

17. It is submitted that the applicant's claim is founded upon the alleged Will dated 18.07.2019 and, therefore, any right claimed by him under the said Will would have to be established in accordance with law. Therefore, it is submitted that the applicant cannot, merely by asserting the existence of a Will, claim an independent title over the suit property. Accordingly, the plaintiff prays for the dismissal of the application.

OPINION OF THE COURT

18. Heard learned counsels for the parties and have perused the material on record

19. The issue which arises for consideration is whether the applicant, who has already been directed to be impleaded as a legal representative of the deceased defendant vide order dated



10.11.2025, should actually be impleaded in his independent capacity on the basis of the Will dated 18.07.2019.

20. In the present case, the applicant has already been impleaded as a legal representative of the deceased defendant. Such impleadment enables him to represent the estate of the deceased and to raise the defences available under Order XXII Rule 4(2) CPC. However, the same does not preclude him from asserting an independent right, title or interest in the subject matter of the suit.

21. In **Vidyawati** (*supra*), Hon'ble Supreme Court has recognised that a legal representative may, in addition to the rights available under Order XXII Rule 4(2) CPC, set up his own independent right, title or interest and may be impleaded in his personal capacity for that purpose.

22. The applicant claims an independent interest in the suit property on the basis of the Will dated 18.07.2019. His claim under the alleged Will is distinct from his status as the legal heir of the deceased defendant.

23. Admittedly, Mr. Harsh Madan and Ms. Komal Arora are the only legal heirs of the deceased defendant. Though, the Applicant-Utkarsh Madan is not a legal heir of the deceased defendant, but definitely he is a legal representative of the deceased defendant, because as per applicant's own case, he represents the deceased defendant's estate by virtue of Will. Here, the applicant falls within the definition of legal representative under Section 2(11) of CPC. The Joint Registrar has also impleaded the applicant as a legal representative and not



2026:DHC:8896



as legal heir of the deceased defendant. Therefore, his independent status as successor of the deceased defendant is duly protected in the spirit of **Vidyawati** (*supra*).

24. Hence, I find no substance in the application. Accordingly, the application is dismissed.

CS(OS) 274/2019

25. List before joint registrar on 20.11.2026 for completion of pleadings.

VINOD KUMAR, J

OCTOBER 09, 2026/vb/Sanskar