



2026:DHC:8414



\$~

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

**Reserved on: 21 September 2026**

**Pronounced on: 29 September 2026**

**+ CS(OS) 152/2016 & I.A. 2452/2021**

**MALCOLM JOHN CAMPBELL .....Plaintiff**

Through: Mr. C Mohan Rao, Sr. Adv.  
with Mr. Lokesh Kumar  
Sharma, Adv.

versus

**THE ROBBINS CO. AND ANR. ....Defendants**

Through: Mr. Aditya Ladha, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE VINOD KUMAR**

**ORDER**  
**(29.09.2026)**

**VINOD KUMAR, J.**

**IA NO. 24353/2025 (Framing of Additional Issues)**

1. The present application has been filed by the applicant-defendant no.1 namely, Hall Street Company, United States of America (formerly known as The Robbins Co.), seeking framing of additional issues under Order XIV Rule 5 of the Civil Procedure Code, 1908 ("CPC" in short). Before advertng to the merits of the said application, it is incumbent upon this Court to provide brief background of the present suit for comprehending crux of the dispute.



2026:DHC:8414



### **BRIEF FACTS**

2. The present suit has been instituted by the plaintiff against defendants for recovery of compensation for injury suffered during his employment with the defendant no.2- Robbins Tunnelling and Trenchless Technology (India) Pvt. Ltd.
3. This Court, by its order dated 04.05.2018, found defendant no.1 as not a necessary party to the present suit and ordered it to be deleted from array of defendants. Thereafter, the issues were framed by this Court, evidence was led and the matter was listed for final hearing/arguments.
4. Thereafter, an application being I.A. No.6802/2020 was preferred by the plaintiff to recall the said order dated 04.05.2018 of the Court seeking to re-implead defendant no.1 through its Receiver. The said Receiver was appointed by the Court of Common Pleas, Cuyahoga County, Ohio, in Case No. CV 19 921031 titled Lok Home v. The Robbins Company to manage defendant no. 1.
5. By order dated 13.08.2020, it was observed by this Court that both defendants are two separate juristic entities and since the plaintiff was an employee of defendant no.2, the compensation claim would lie against defendant no.2 only and accordingly, the application was dismissed being devoid of any merit.



2026:DHC:8414



6. Consequently, both orders dated 04.05.2018 and 13.08.2020 were challenged *qua* appeal bearing FAO(OS) 1/2021 before a Division Bench of this Court. The Division Bench vide order dated 21.04.2022 relied upon **Charan Lal Sahu v. Union of India, (1990) 1 SCC 613** and **David Brian Chandler v. CAPE PLC, (2012) EWCA 525**, and set aside both orders concluding thus:

*“14. The aforesaid aspects were not argued before the learned Single Judge and, therefore, not even considered in the two impugned orders. The impugned orders proceed on the premise that there was no privity of contract between plaintiff/appellant and The Robbins Co., and the subsidiary, i.e. the originally impleaded defendant No. 2. The defendants were two separate juristic entities and the liability, if any, would be that of the Indian subsidiary company.*

*15. In the light of the aforesaid decisions, in our view, the issue whether the American Company, i.e. The Robbins Co. – the original defendant No.1, could be fastened with any tortuous liability, is not an easy question to answer, muchless without appreciation of the case set up by the parties and the evidence led by them.*

*16. We are, thereof, of the view that the impugned orders cannot be sustained and we, accordingly, set aside the same. We direct reimpleadment of The Robbins Co. as a party defendant. However, the mere re-impleadment of The Robbins Co. as a party defendant in the suit would not tantamount to acceptance of the plaintiff's claim against the said entity. It shall be open to the plaintiff to assert his claim against both the defendants and it shall be equally open to the defendants to ward off the claim by claiming that one or both of them are not liable. As aforesaid, the determination of this issue would have to be examined by the learned Single Judge by appreciating the evidence brought on record.*



2026:DHC:8414



17. Since The Robbins Co. was deleted as a party defendant at the stage of framing of issues, i.e. after they had filed their written statement, it shall be open to The Robbins Co. to cross-examine the plaintiff's witnesses, if they so desire, and also to lead their own evidence, if they so desire.

18. In the light of the pleadings already on record and since The Robbins Co. has been impleaded as a party defendant, **we direct framing of an additional issue in the suit:**

**Whether The Robbins Co. is liable to pay any amount towards damages to the plaintiff? OPP**

7. Aggrieved by the abovementioned Division Bench's order, defendant no.1 approached Supreme Court via Special Leave Petitions, i.e. SLP(C)791-792/2023. The Supreme Court vide order dated 04.12.2024 declined to interfere with the Division Bench's order, however, granted liberty to defendant no.1 in the following terms:

***“Considering the stage at which the suit is pending, we decline to interfere with the impugned order. However, it will be open for the petitioner to file additional written statement within a period of two months from today. All contentions such as the petitioner not being a necessary or proper party, bar of limitation, etc. can be raised by the petitioner by filing additional written statement.***

***Based on the additional written statement, the Trial Court will frame additional issues. On the prayer made by the Petitioner, the Trial Court will recall the witnesses so far examined by the first respondent-plaintiff to enable the learned Advocate for the petitioner to cross-examine them. It will be open for the petitioner to adduce evidence.***

***We make it clear that notwithstanding the confirmation of the impugned order, the issue whether the petitioner is a necessary or proper party will remain open”***



2026:DHC:8414



## **APPLICATION**

8. Therefore, in terms of the liberty granted by the Supreme Court, the applicant-defendant no.1 has filed the present application under Order XIV Rule 5 of the CPC proposing to frame additional issues: -

*“a. Whether Defendant No. 1 is a necessary or a proper party to the suit and ought to be deleted from the array of parties? OPP*

*b. Whether any claims against the against Defendant No.1 are maintainable in light of the Order dated 07.10.2019 passed by the Hon’ble Court of Common Pleas, Cuyahoga County, Ohio, in a Case No. CV 19 921031 titled Lok Home v. The Robbins Company, wherein, while appointing a court receiver to manage the Defendant No. 1, the Court directed that all creditors, claimants, bodies politic, parties in interest, and their respective attorneys, servants, agents, and employees, and all other persons, firms, and corporations are enjoined and stayed from commencing or continuing any action at law or suit against the Defendant No.1? OPD-1*

*c. Whether the Plaintiff’s alleged claim is hit by the law of res judicata as his alleged claims were already rejected and dismissed vide the Order dated 18.11.2020 passed by the Hon’ble Court of Common Pleas, Cuyahoga County, Ohio, in a Case No. CV 19 921031 titled Lok Home v. The Robbins Company? OPD-1*

*d. In case the issues ‘b’ and ‘c’ above are decided in favour of the Plaintiff and against Defendant No.1, then, whether the alleged claim is maintainable against Defendant No.1 as it does not hold any interest, rights, or liabilities in Defendant No. 2 Company from the date of Equity Transfer, i.e., 01.02.2021? OPD-1”*



2026:DHC:8414



### **REPLY TO APPLICATION**

9. By way of reply, the plaintiff has opposed framing of additional issues. The plaintiff has pleaded that the additional issue framed by the Division Bench vide order dated 21.04.2022 take care of all of the additional issues proposed by the defendant no.1.

### **OPINION OF THE COURT**

10. I have heard the arguments of the parties and perused the material on record.
11. The Supreme Court vide order dated 04.12.2024 passed in SLP(C) 791-792/2023 preferred by defendant no.1 has specifically directed that the issue whether defendant no.1 is a proper party to the suit, will remain open to this Court. This direction can only be made effective by framing proposed issue (a) in the application to this effect.
12. Regarding proposed issues (b) and (c), learned counsel for the plaintiff submits that the additional issue framed by the Division Bench vide order dated 21.04.2022 (as reproduced in Para 5 of this judgment) would be sufficient and would take care of all proposed additional issues.
13. After perusing the additional issue as previously framed by this Court at the direction of Hon'ble Division Bench, I am of the opinion that the said additional issue does not take care of the facts mentioned in proposed additional issues (b) and (c), which are required to be framed for just



2026:DHC:8414



direction of the suit. Proposed Issue (d) is also necessary to be framed because, relief sought is in consequence to the determination of Issues (b) and (c).

14. Accordingly, I allow the present application.

15. The application is disposed of.

**CS(OS)No. 152/2016**

16. Now the present set of issues would include previously framed issues by the Single Judge vide order dated 04.05.2018 as well as the additional issue framed by the Division Bench vide order dated 21.04.2022 and the proposed additional issues in I.A. No. 24353/2025.

17. Now trial shall commence on following issues:

- (i) Whether the injury suffered by the plaintiff is attributable to defendants? OPP
- (ii) Whether the injury suffered by the plaintiff is attributable to own negligence of the plaintiff and if so, to what effect? OPD
- (iii) If the above issues are decided in favour of the plaintiff, whether the claim, if any of the plaintiff against defendants, owing to the Group Personal Accident Tailor Made Policy issued by M/s. United India Insurance Company Limited, is limited to the extent as provided therein? OPD
- (iv) If the above issues are decided in favour of the plaintiff, whether the plaintiff has incurred loss of



2026:DHC:8414



earnings in the total sum of Rs.6,18,83,976/- and the plaintiff entitled to recover the same from defendants? OPP

- (v) If the issues (i) to (iii) are decided in favour of the plaintiff, whether the plaintiff has incurred expense of Rs.67,56,019/- on account of care and nursing and is entitled to recover the same from the defendants? OPP
- (vi) If the issues (i) to (iii) are decided in favour of the plaintiff, whether the plaintiff has incurred expense of Rs.47,71,200/- in aids and equipment, Rs.38,07,418/- in travelling, Rs.28,627/- in clothing and Rs.47,71,200/- in treatment and is entitled to recover the same from the defendants? OPP
- (vii) If the issues (i) to (iii) are decided in favour of the plaintiff, whether the plaintiff is entitled to recover a sum of Rs.95,42,400/- from the defendants on account of trauma, pain and suffering? OPP
- (viii) If the plaintiff is found entitled to any monies from defendants, whether the plaintiff is entitled to any interest thereon and, if so, at what rate and for what period? OPP
- (ix) Whether Defendant No. 1 is a necessary or a proper party to the suit and ought to be deleted from the array of parties? OPP
- (x) Whether any claims against the against Defendant No.1 are maintainable in light of the Order dated



2026:DHC:8414



07.10.2019 passed by the Hon'ble Court of Common Pleas, Cuyahoga County, Ohio, in a Case No. CV 19 921031 titled Lok Home v. The Robbins Company, wherein, while appointing a court receiver to manage the Defendant No. 1, the Court directed that all creditors, claimants, bodies politic, parties in interest, and their respective attorneys, servants, agents, and employees, and all other persons, firms, and corporations are enjoined and stayed from commencing or continuing any action at law or suit against the Defendant No.1? OPD-1

- (xi) Whether the Plaintiff's claim is hit by the law of res judicata as his claims were already rejected and dismissed vide the Order dated 18.11.2020 passed by the Hon'ble Court of Common Pleas, Cuyahoga County, Ohio, in a Case No. CV 19 921031 titled Lok Home v. The Robbins Company? OPD-1
- (xii) In case the issues, (ix), (x) and (xi) above are decided in favour of the Plaintiff and against Defendant No.1, then, whether the alleged claim is maintainable against Defendant No.1 as it does not hold any interest, rights, or liabilities in Defendant No. 2 Company from the date of Equity Transfer, i.e., 01.02.2021? OPD-1
- (xiii) If so, whether The Robbins Co. i.e. defendant no.1 is liable to pay any amount towards damages to the plaintiff and if so, quantum? OPP



2026:DHC:8414



(xiv) Relief.

18. Liberty is granted to the plaintiff that either he may rely upon the evidence affidavit, already filed. Or, he may file fresh evidence affidavit pursuant to the fresh framing of issues as above.
19. List this matter before the Joint Registrar for recording of evidence on 01.10.2026.

**VINOD KUMAR, J.**

**SEPTEMBER 29, 2026**