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

+ C.R.P. 117/2016 & CM No.22278/2016

LEELAWATI

..... Petitioner

Through

Mr.Amit Sharma and Mr.Dwapyam
Gupta, Advs.

versus

PHOOLWATI & ORS

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

10.08.2016

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CM No.22278/2016

Exemption allowed, subject to all just exceptions.

C.R.P. 117/2016

It is the contention of the petitioner that the predecessor of the petitioner/plaintiff had filed the present suit for possession. It is submitted that in view of the sale of the property vide registered sale deed by the plaintiff the petitioner stepped into the shoes of the plaintiff. Admittedly, the original plaintiff had died on 10.6.1989. The defendant had also died on 12.8.1991.

He further submits that in the meantime an application under Order VI Rule 17 CPC for amendment of the plaint was allowed by the trial court. The original defendant filed a revision petition. Pending decision, this court stayed further proceedings before the trial court. The revision was dismissed



on 14.08.1997 and then the suit could proceed further. Hence immediately thereafter the petitioner has moved two applications, namely, under Order 22 Rule 10 CPC to bring on record the petitioner and a second application dated 12.11.1997 for bringing on record the LRs of the deceased plaintiff. A third application dated 18.2.1999 to bring on record LRs of the deceased was also filed. These three applications were dismissed by the trial court. The petitioner has thereafter challenged the order of the trial court dismissing the pre-applications by way of revision petition which was withdrawn subsequently, and then by way of a petition under Article 227 of the Constitution before this court. The second petition was dismissed on 02.01.2012 on the ground of jurisdiction. Hence, the petitioner now challenged the order of the trial court dismissing the three applications before the appellate court. The appellate court has now by the impugned order dismissed the said appeal of the petitioner.

Learned counsel for the petitioner submits that the petitioner cannot be non-suited for a delay that took place due to the proceedings in the suit having been stayed in revision for a long period till 1997.

Issue notice to the respondents by speed post and ordinary process, returnable for 12.12.2016.

Notice be issued dasti also through counsel appearing for the respondent before the trial court.

JAYANT NATH, J

AUGUST 10, 2016

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