

Jagmohan Kothari Vs. Smt. Jamuna Devi Kothari and Others

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Court : Kolkata

Decided On : Aug-21-2013

Judge : Subhro Kamal Mukherjee

Appellant : Jagmohan Kothari

Respondent : Smt. Jamuna Devi Kothari and Others

Judgement :

IN THE HIGH COURT AT CALCUTTA Civil Appellate Jurisdiction Original Side
Present : The Honble Justice Subhro Kamal Mukherjee And The Honble Justice
Asim Kumar Mondal August 21,2013 GA 226.of 2013 APO 74.of 1992 Suit
No.1224 of 1950 Jagmohan Kothari versus Smt.

Jamuna Devi Kothari and others Mr.Arindam Mukherjee Mr.Chayan Gupta For the
applicant Ms.Anuradha Poddar For the respondent no.7 Mr.Pranav Sharma .

For the substituted plaintiff The Court :- This is an application for substitution and
for addition of a party by Koti Ratan Developers Private Limited.

The suit was decreed in preliminary form declaring one-fourth share of the
plaintiff/appellant in premises Nos.201A, Mahatma Gandhi Road, Kolkata-700 007,
201B, Mahatma Gandhi Road, Kolkata-700 007, P-31A, Kalakar Street, Kolkata-
700 007 and 32, Jamunalal Bajaj Street, Kolkata-700 007.

The appellant was the plaintiff in the suit.

We are informed that consequent upon the death of the appellant his heirs and legal representatives have been substituted in the suit.

It is stated in this application that Jagmohan Kothari died intestate on October 1, 2012 leaving behind his widow Shrimati Kashi Devi Kothari, his son Ashok Vardhan Kothari and his married daughter Shrimati Mridula Somani as his only heirs and legal representatives.

All of them, we are informed, are majors and sui juris.

The right to proceed with the appeal survives with them.

We, thus, direct substitution of the said heirs and legal representatives of the deceased appellant in this appeal instead and place of original appellant.

Mr.Pranav Sharma, learned advocate appearing for the said heirs undertakes to file vakalatnama for them by one week from today.

Mr.Arindam Mukherjee, learned advocate appearing for the applicant, M/S.Koti Ratan Developers Private Limited, contended in the application that it has acquired one-fourth interest in those properties from the heirs and legal representatives of the deceased appellant under a registered deed of conveyance dated May 22, 2013.

It is, further, stated that Sree Ballabh Kothari, the respondent no.7 in this appeal, also, conveyed his undivided one-fourth share in those properties in favour of Koti Ratan Developers Private Limited by executing registered deed of conveyance dated May 22,2013.

Therefore, it is prayed that, in view of such devolution of interest, the said Koti Ratan Developers Private Limited is a necessary party in this appeal and they prayed for their addition in the category of the respondent.

Ms.Anuradha Poddar, learned advocate appearing for the heirs and legal representatives being the respondent no.7 of the deceased appellant does not raise any objection to such addition.

Thus, we allow this application and direct the addition of Koti Ratan Developers Private Limited , a company incorporated under the Companies Act, 1956, having its registered office at No.59, Cotton Street, Third floor, Kolkata 7-00 007 as respondent in this appeal.

Mr.Arindam Mukherjee submits that his learned advocate on record shall file vakalatnama for the added respondent.

Therefore, formal service of notice upon the said added respondent is dispensed with.

The office is directed to carry out the necessary amendment in the cause title forthwith.

With the aforesaid direction the application stands disposed of.

We make no order as to costs.

(Subhro Kamal Mukherjee, J.) (Asim Kumar Mondal, J.) ANC.

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