

**HIGH COURT OF DELHI AT NEW DELHI**

Bench: Justice Manmeet Pritam Singh Arora

Date of Decision: September 27, 2023

CM(M) 1531/2023 & CM APPLs. 48365/2023, 48367/2023

SHRI RAM MAGGO

..... Petitioner

versus

SMT MUNTO BEGUM NOW DECEASED & ORS ..... Respondents

**Sections, Acts, Rules, and Article:**

Order XXII Rule 3 of the Civil Procedure Code (CPC)

Article 227 of the Constitution of India

**Subject:** Eviction Petition - Challenge to Trial Court's order allowing substitution of legal heirs of deceased landlady

**Headnotes:**

*Eviction Petition - Challenge to Trial Court's order allowing substitution of legal heirs of deceased landlady - Two objections raised by the petitioner regarding formal application for condonation of delay and non-disclosure of details of all Class-I legal heirs - Limitation issue addressed in light of Supreme Court judgment - Second objection dismissed as the Trial Court considered the original Will and allowed the application - No infirmity or error found in the Trial Court's order - Petition dismissed - Petitioner has no locus to raise objections to the application by the sons of the deceased landlady under Order XXII Rule 3 CPC - Petition lacks merit. [Para 1-7]*

**Referred Cases:** None.

**Representing Advocates:**

Mr. Rahul Kr. Singh

Mr. Shailendra Kr. Singh

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**J U D G M E N T**

**MANMEET PRITAM SINGH ARORA, J (ORAL):**

**CM APPL. 48366/2023 (For Exemption)**

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

**CM(M) 1531/2023**

1. This petition impugns the order dated 18.05.2023 passed by the CCJcum-ARC, Central District, Tis Hazari Courts, Delhi in Eviction Petition bearing no. 199/2019 titled as **Munto Begum Versus Ram Maggo** ('Trial Court') whereby the Trial Court allowed the application filed by legal heirs of deceased landlady under Order XXII Rule 3 read with Section 151 CPC.
2. The learned counsel for the Petitioner states that the impugned order is incorrect on two grounds; i.e., that (a) there was no formal application filed for seeking condonation of delay; and (b) in the application under consideration, the details of all the Class-I legal heirs of the deceased landlady, Munto Begum were not disclosed.
3. This Court has considered the submissions of the learned counsel for the Petitioner and perused the record
4. The objection with respect to the limitation raised by the Petitioner is untenable. The landlady passed away on 14.11.2020 and the application for substitution was filed on 11.11.2021. In view of the judgment of Supreme Court dated 10.01.2022 in ***Suo Moto W.P.(C) 3/2020 in Re; Cognizance for Extension of Limitation*** the period from 15.03.2020 till 28.02.2022 is to be excluded for the purposes of limitation. Therefore, in the opinion of this Court, there was no requirement for a formal application for condoning limitation for the said period.
5. With respect to the second objection raised by learned counsel for the Petitioner as regards to the non-disclosure of the details of all the Class-I legal heirs, it is noted that the Trial Court has allowed the application after perusing the original Will dated 17.09.2020, a copy

whereof was also filed before the Trial Court. The order of the Trial Court reads as under

*“In the present case, it is not in dispute that the petitioner has died on 14.11.2020. The present application was moved on 12.11.2021. Period of limitation for filing applications was suspended at that time on account of pandemic situation.*

*In the application, it is averred that the petitioner has left a Will dated 17.09.2020 whereby she bequeathed the suit property in favour of Yamin Khan and Shokat Ali, who are her sons. The copy of Will is also annexed with the application. **Today, original Will is shown to the Court.** Thus, prime facie, it seems that the suit property has devolved upon Yamin Khan and Shokat Ali after the death of deceased petitioner. Even though, the Will has been notarized by a suspended Notary, it will not become invalid since it is not the mandate of law that the Will has to be notarized or registered. Considering the Will of the deceased petitioner, the right to sue survives only in favour of Yamin Khan and Shokat Ali. Accordingly, the application is allowed. Yamin Khan and Shokat Ali are now impleaded as party in place of deceased petitioner. Amended memo of parties be filed on the next date. It is hereby clarified that the observations made herein shall not tantamount to finding on validity of the Will or confer right or title on Yamin Khan and Shokat Ali with respect to suit property.*

*Put up for arguments on leave to defend application on 02.09.2023.”*

(Emphasis supplied)

5.1. In the opinion of this Court, the order of the Trial Court does not suffer from any infirmity or error warranting supervisory correction, in exercise of Article 227 jurisdiction of this Court. The rights, if any, of the other legal heirs of the deceased landlady have been specifically preserved in the said order and no prejudice has been occasioned to them.

5.2. The Petitioner herein, is only a tenant in the suit property bearing no. 3832/9, Gali Abban Wali, Mohalla Shahganj, G.B Road, Ajmeri Gate, Delhi. There is no dispute that Mr. Yamin Khan and the Mr. Shokat Ali are

the sons of the deceased land-lady and therefore, they are entitled to brough on record as her legal heirs. The Petitioner have no locus to raise any objections to the application filed by the sons of the landlady under Order XXII Rule 3 CPC. The objections raised in the facts of the case is apparently to delay adjudication of the application for leave to defend, which is pending for adjudication before the Trial Court.

6. The present petition is therefore without any merits and accordingly, dismissed.
7. Pending Applications, if any, stands disposed of.

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