

**Gian Chand (deceased) through LRs & another vs.
Anoop & others**

**CMP No.10825 of 2026 in RSA No.117 of 2014
a/w C.O. No.13 of 2014**

16.09.2026 Present: Mr. Ashok K. Tyagi, Advocate, for appellant No.1.

Mr. Anand Sharma, Senior Advocate with Mr. Karan Sharma, Advocate, for the respondents, including the proposed legal representatives of respondent No.2/cross-objectors.

**CMP(M) Nos. 743 & 744 of 2026 and CMP
No.10825 of 2026**

These applications have been filed for condonation of delay in filing the application for bringing on record the legal representatives of deceased respondent No.2, for setting aside abatement and for recalling the order passed by this Court on 02.01.2026, whereby the appeal was ordered to be dismissed as having been abated.

It has been contended in the application under Section 5 of the Limitation Act that the applicants were never aware of the death of respondent No.2, nor order dated 11.08.2025 was ever intimated to the applicants by their counsel. As per the applicants, it was only in the second week of December 2025 that the counsel for the applicants informed them regarding the factum of the death of respondent No. 2, as well as the requirement of filing an application for bringing on record the legal heirs. It

was also informed by the then counsel that for the purpose of filing the appropriate application, the death certificate and the legal heir certificate were also required. As per the applicants, they are residents of District Sirmaur, whereas the respondents are residents of District Solan. Despite making their best efforts and approaching the concerned Panchayat Secretary, the Revenue Officer and the other concerned authority, namely the Registrar of Births and Deaths, for obtaining the death certificate, they could not obtain the same. It was only in the first week of February 2026 that the applicants contacted the counsel and informed him that despite best efforts, the death certificate and the legal heir certificate could not be procured. The counsel directed them to wait for some time, as there were winter vacations in the court.

Thereafter, the applicants again approached the counsel in the second week of February 2026, who advised them that in the absence of the case file, nothing could be done and that an application under the Right to Information Act could be filed in order to obtain the relevant documents. In the third week of February 2026, the applicants applied for the same under the Right to Information Act. Despite the lapse of a period of three weeks, no information was supplied under the Right to Information Act by the concerned authority. Therefore, the

present applications for condonation of delay and for bringing on record the legal representatives are being filed without the death certificate and the legal heir certificate.

It has been contended that the delay in filing the applications was neither intentional nor wilful, but that the same occurred under unavoidable circumstances, as the relevant documents were not supplied by the concerned authorities till date to the applicants. It is contended by the learned counsel for the applicants that since they have assailed the impugned judgment passed by the learned District Judge, there was no occasion for them not to have taken steps for the substitution of respondent No. 2 in any manner.

The applications have been vehemently opposed by Mr. Karan Sharma, Advocate by filing reply(ies) been filed wherein all the averments made in the applications have been specifically denied in toto.

This Court is of the considered opinion that in view of the averments made by the present applicants, especially, in paragraphs 4, 5, 6 & 7 of CMP(M) No. 744 of 2026, and paragraphs 6 to 14 of CMP(M) No. 743 of 2026 and in view of the explanation offered by the present applicants, this Court is convinced that the present applicants were prevented by unforeseen circumstances from filing the present applications in time.

Therefore, the delay in filing the application {CMP(M) No.743 of 2026} is condoned, the abatement is set aside and the legal representatives mentioned in para-2 of the application being CMP(M) No. 743 of 2026, are ordered to be brought on record as respondents No. 2(a), to 2(c), subject to all just exceptions.

Consequently, the order passed by this Court on 02.01.2026 is ordered to be recalled and the appeal is restored to its original number.

Since there is considerable delay in filing the applications, the present applications are allowed subject to payment of costs of Rs.25,000/- to be paid to the respondent/non-applicant through counsel Mr. Karan Sharma within a period of four weeks from today positively, failing which the order passed by this Court on 02.01.2026 shall stand revived automatically.

The learned counsel for the appellant undertakes to file the amended memo of parties within a period of three days from today.

RSA No.117 of 2014

List on 16th October, 2026.

**(Romesh Verma)
Judge**

September 16, 2026
(vt)