

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 135 of 2001

1. Rambai @ Rambati, aged about 55 years, widow of Ramant Singh, Caste Gond, R/o Village Beltara, at present Bandhakhar, Tehsil Katghora, District Korba.

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Versus

1. Phoolbai, aged about 57 years, widow of Sukhnath, Caste Gond
2. Neerabai, aged about 45 years, D/o Sukhnath, Caste Gond
Both R/o Village Bandhakhar, Tehsil Katghora, District Korba.
3. The State of M.P. (now Chhattisgarh) through Collector, District Korba.

---- Respondents

For Appellant – Ms. Priya Mishra, Advocate under the instruction of Mr. S.C.Verma, Advocate.

For respondent No.3. – Mr. Chitranjay Patel, Govt. Advocate.

Order On Board

22/07/2015

1. Respondent No.1 Phoolbai died on 17-07-2008 and respondent No.2 Neerabai died on 27-10-2007. Mr. R.R.Soni, Advocate, as per his submission, he was representing proposed LR's. of respondents 1 and 2 (No any application for substitution of respondent No.1 and respondent No.2 as proposed LR's. ever filed in the instant case by either parties as admitted by both the parties.)
2. As per order dated 24-11-2014, the trial Court after enquiry as ordered, submitted his enquiry report dated 31-01-2015 under the provisions of Order 22 Rule 5 of the CPC whether the Anjor Singh is legal heir/representative of died appellant or not.
3. As per the enquiry report, applicant Anjor Singh is legal representative of died appellant Rambai.
4. The enquiry report is taken into consideration.
5. Also heard on I.A.No.3/14, application under Order 22 Rule 3, 4 and 9 read with Order 1 Rule 10 of the CPC, I.A.No.4/14 under Order 41 Rule 19 of the

CPC read with Order 22 Rule 9 for setting aside abatement and hearing of the second appeal, I.A.No.6/14 under Section 5 of the Limitation Act for condonation of delay.

6. On due consideration, I.A.Nos. 3/14, 4/14 and 6/14 are hereby allowed. The delay in filing the application to substitute as LR's. of the sole appellant is hereby condoned. Abatement, if any, after death of appellant Rambai on 14-03-2013 is hereby set aside. The applicant Anjor Singh is directed to delete the name of Rambai @ Rabati and substitute his name as sole appellant within 7 days.

7. Also heard on I.A. No.5/14 for exemption from filing the typed copies.

8. After due consideration, I.A.No.5/14 is hereby dismissed. The appellant is directed to file typed copies as required.

9. As contesting respondents Phoolbai died on 17-07-2008 and Neerabai died on 27-10-2007, no any application for substitution of LR's. connected with condonation of delay and setting aside the abatement ever filed on behalf of the appellant who died on 14-03-2013 many years after death of contesting respondents 1 and 2 by filing of any appropriate application as aforementioned, the instant second appeal stands abated and dismissed as abated.

Sd/-

(Chandra Bhushan Bajpai)
JUDGE