

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 466 of 2013

1. Pandree (Died) Through LRs Tulan Ram, S/o Late Jangu, Age- 78 Yrs, R/o Village- Jujgu, Post- Kurdeg, Post- Kurdeg, P.S. & Tah. Bagicha, Civil & Revenue Distt. Jashpur C.G.
2. Harbhajan S/o Late Jangu Aged About 58 Years R/o Bhuldih, Post- Jhiki, P.S. & Tah. Bagicha, Civil & Revenue Distt. Jashpur C.G.

---- Applicants

Versus

1. Mst. Khuree W/o Sudhnath Uraon Aged About 62 Years R/o Phooldeey, P.S. & Tah. Bagicha, Civil & Revenue Distt. Jashpur C.G.
2. Paras S/o Hunda Aged About 27 Years R/o Phooldeey, P.S. & Tah. Bagicha, Civil and Revenue Distt. Jashpur C.G.

---- Respondents

For Applicants	:	Shri A.N. Pandey, Advocate
For Respondents	:	Shri Jitendra Kumar Saxena, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

26/11/2015

This MCC has been filed by the applicants praying for setting aside the abatement of the appeal and also for orders on application under Order 22 Rule 3 CPC.

The appeal was filed by deceased Pandree in the year

1995. She died in the year 2005. Thereafter, when the appeal was listed for hearing on 13.01.2012, the appeal was dismissed for want of prosecution. Thereafter, though the applicants moved an application for restoration of appeal, the same was dismissed as withdrawn with liberty to file instant application.

The prayer for setting aside abatement of appeal cannot be considered in a separately constituted proceedings. Unless the order of dismissal of appeal for want of prosecution is recalled and the appeal is restored to its original number, application for setting aside abatement and application for substitution of legal representatives of deceased Pandree could be considered in the separately constituted proceedings. Therefore, this MCC is not maintainable and is dismissed with liberty to revive prayer for restoration of the dismissed appeal.

Sd/-

(Manindra Mohan Shrivastava)

J U D G E