

HIGH COURT OF CHHATTISGARH, BILASPURM.C.C.No.243 of 2016

Raghunandan Prasad Jaiswal, S/o Shri Netal Sao, aged about 68 years, Occupation Cultivator (DEAD) Through LRs

A. Sunil Jaiswal, S/o Late Raghunandan Prasad Jaiswal, aged about 56 years,

B. Anil Jaiswal, S/o Late Raghunandan Prasad Jaiswal, aged about 48 years,

C. Sanjay Jaiswal, S/o Late Raghunandan Prasad Jaiswal, aged about 46 years,

All R/o Baikunthpur, Tahsil Baikunthpur, District Korea (C.G.)
---- Applicants

Versus

1. Ramanuj Prasad Tiwari, S/o Shri Ramswaroop Ram, aged about 51 years, (DEAD) Trough LRs:

1A. Ravindra Nath Tiwari, S/o Late Ramanuj Prasad Tiwari, aged about 41 years,

1B. Dhruvnath Tiwari, S/o Late Ramanuj Prasad Tiwari, aged about 43 years,

Both R/o Village Mahora, Post & P.S. Patna, Tahsil Baikunthpur, District Korea (C.G.)

2. State of Madhya Pradesh now (C.G.), Through Collector, District Korea (C.G.)

---- Non-applicants

For Applicants:	Mr. Shakti Raj Sinha, Advocate.
For Non-applicants No.1A & 1B:	Mr. A.N. Pandey, Advocate.
For State/Non-applicant No.2:	Mr. Om P. Sahu, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

16/09/2016

(1) The sole appellant died and consequently, S.A.No.391/1992 was dismissed as abated by the order of this Court dated 30-9-2010 and thereafter, this MCC has been preferred for setting aside

abatement and for bringing the LR's of the plaintiff and the defendant on record.

- (2) Heard on I.A.No.1 for condonation of delay in filing the MCC.
- (3) In the considered opinion of this Court, sufficient cause has been shown for delay in filing the MCC. Consequently, I.A.No.1 is allowed and delay in filing the MCC is hereby condoned.
- (4) Also heard on the application for condonation of delay.
- (5) On due consideration, finding sufficient cause, delay in filing the application for abatement / substitution is condoned and the said application is allowed.
- (6) Also heard on the application under Order 22 Rule 3 of the CPC for bringing the legal heirs of the applicant namely Raghunandan Prasad Jaiswal on record and the application under Order 22 Rule 4 of the CPC for bringing the LR's of non-applicant No.1 Ramanuj Prasad Tiwari on record.
- (7) On due consideration, sufficient cause has been shown by the applicants that they were prevented from continuing the appeal. Consequently, the application under Order 22 Rule 3 of the CPC and the application under Order 22 Rule 4 of the CPC are also allowed. Let the LR's of Raghunandan Prasad Jaiswal and the LR's of Ramanuj Prasad Tiwari be brought on record in the second appeal within 15 days subject to payment of cost of Rs.5,000/- to non-applicants No.1A & 1B within 15 days from today.
- (8) Resultantly, the abatement is set aside, substitution application is allowed and S.A.No.391/1992 is restored to its original number for hearing and disposal in accordance with law.

(9) No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge

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