IN THE HIGH COURT OF JHARKHAND AT RANCHI
(Civil Miscellaneous Jurisdiction)
C.M.P. No. 10 of 2015
……..

Central Coalfields Limited …. ..... Appellant

Versus

Shyamlal Mahto & Others …. ..... Respondents

CORAM: HON'BLE MR. JUSTICE KAILASH PRASAD DEO
(Through : Video Conferencing)

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For the Appellant : Mrs. Swati Shalini, Advocate.
For the Respondents : None.
For the Respondent No. 4: Mr. Prashant Roy, A.C. to S.C.(L&C)-I

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09/11.12.2020.

C.M.P. No. 10/2015 has been filed for restoration of F.A. No. 146/2018, which was dismissed because of non-compliance of peremptory order. I.A. No. 2437/2015 has been filed for condoning the delay of 1448 days in filing the restoration petition.

Learned counsel, Mr. Swati Shalini, on the instruction of learned counsel for the appellant, Mr. Amit Kumar Das, has submitted that during pendency of the restoration application, respondent nos.1 & 2 have died and to substitute the names of legal heirs of respondent no. 1, I.A. No. 2958/2019 has been filed, as respondent no. 2 has died issueless, which was also filed after 90 days, as such, for setting aside abatement and for condonation of delay, the appellant has filed I.A. No. 5616/2019 and I.A. No. 5617/2019.

So far respondent no. 2 is concerned, vide order dated 05.09.2019 passed in I.A. No. 2958/2019, the name of respondent no. 2 has been deleted as he died issueless.

So far legal heirs of respondent nos. 1 is concerned, they have appeared through learned counsel Mr. Swami Dayanand and Manish Kumar, who are also representing respondent no. 3, but no counter affidavit has been filed on their behalf.

Under the aforesaid circumstances, I.A. No. 2958/2019 is allowed, which was filed for substitution of respondent no. 1, after setting aside abatement and also after condoning the delay in filing the substitution petition.

Accordingly, I.A. No. 5616/2019 and 5617/2019 are allowed.

Let the name of respondent no. 1 be deleted from the memo of appeal and in his place, the names of his legal heirs be mentioned.

On the joint prayer of the parties, the C.M.P. No. 10/2015 along with I.A. No. 2437/2015 has been heard.

Learned counsel for the appellant, Mrs. Swati Shalini, has submitted that restoration application vide C.M.P. No. 10/2015 has been filed with a delay of 1448 days, though, analogous first appeals are pending before this Court.

Learned counsel for the respondent – State has opposed the prayer, but no counter affidavit has been filed.

Considering the same, the delay in filing the restoration vide I.A. No. 2437/2015 is allowed.

Accordingly, restoration application i.e. C.M.P. No. 10/2015 is also allowed and F.A. No. 146/2008 is restored to its original file.

Let the F.A. No. 146/2008 be tagged with analogous matter.

(Kailash Prasad Deo, J.)

Sunil-Jay/-