

HIGH COURT OF CHHATTISGARH, BILASPUR**M.C.C. No. 241 of 2021**

- Vijay Kumar Chakravorti (Since Dead) Through Legal Representative Smt. Kalpana Chakravorti Wd/o Vijay Kumar Chakravorti Aged About 78 Years Caste Hindu, Director Pradeep Traders, Main Road Korba, Chhattisgarh.

---- Applicant**Versus**

- Heera Lal Thawait S/o Late Shri Dhaniram Thawait Caste Hindu, R/o Mig - 2/115, Maharana Pratap Nagar, Korba, Chhattisgarh.

---- Non-applicant

For Applicant:

Ms. Swati Verma, Advocate

For Non-applicant:

None.

Single Bench: Hon'ble Shri Sanjay S. Agrawal, J**Order On Board****06.07.2021**

1. Heard on I.A. No.05/2021, an application filed by proposed legal representative of deceased sole Appellant for condonation of delay in filing the application under Order 22 Rule 9 of CPC for setting aside the abatement of appeal, being F.A. No.195/2009.
2. On due consideration and for the reasons assigned therein, I am inclined to allow the said application. Accordingly, the delay in filing the application for setting aside is condoned.
3. Also heard on MCC as well as on I.A. No.04/2021, an application filed under Order 22 Rule 9 of CPC by the proposed legal representative of deceased sole Appellant for setting aside the abatement of appeal as the deceased sole Appellant died during the pendency of the said appeal on 14.01.2019.
4. On due consideration and for the reasons assigned therein, which is

duly supported by an affidavit, I am inclined to allow the same and the abatement of the appeal, being FA/195/2009, is hereby set aside.

5. Also heard on I.A. No.06/2021, an application under Section 5 of Limitation Act for condonation of delay in filing the application under Order 22 Rule 3 of CPC.

6. Ms. Verma does not want to press this application as it was not required to be filed under the law and has been filed inadvertently.

7. The aforesaid application is accordingly rejected as not pressed.

8. Also heard on I.A. No.01/2021, an application filed under Order 22 Rule 3 of CPC by proposed legal representative of deceased sole Appellant, namely, Smt. Kalpana Chakravorti for her substitution in place of him based upon the Will dated 13.08.2008 (Annexure A3) executed by him in her favour.

9. On due consideration of the application and considering further the alleged Will executed by the sole Appellant in favour of the said proposed legal representative, I am inclined to allow this application and the said legal representative is hereby permitted to be substituted in his place in the cause title of memo of the said appeal.

10. In view of above, the MCC is allowed. No order as to costs.

Sd/-
(Sanjay S. Agrawal)
JUDGE