

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION**

INTERIM APPLICATION NO. 298 OF 2023

IN

TESTAMENTARY SUIT NO. 156 OF 2023

IN

TESTAMENTARY PETITION NO. 483 OF 2013

Shivprasad Ramkhilavan Gupta ...Applicant

IN THE MATTER BETWEEN :

Ramkhilavan Jagai Gupta ...Deceased

Shivprasad Ramkhilavan Gupta ...Plaintiff

Versus

Mr. Chandu Ramkhilavan Gupta & Ors. ...Defendants

* * *

• Mr. Kanhaiya S. Yadad and Ms. Anu K. Yadav, for
Applicant/Plaintiff.

* * *

CORAM : MANISH PITALE, J

DATE : 25th AUGUST, 2023

P. C. :

1. By this application, the Applicant/Plaintiff seeks to bring on record legal representatives of Defendant No. 1, who expired on 31st May, 2021. There is also a prayer for setting aside abatement as against Defendant No. 1 along with a prayer for condonation of delay in moving the present application.

2. This Court takes note of the statement made in paragraph no. 6 of the application that in the light of orders passed by the Hon'ble Supreme Court in Suo-Motu Writ Petition (Civil) No. 03 of

2020, since the Defendant No. 1 expired during the period of the Covid-19 pandemic and the present application itself was moved on 22nd February, 2022, in the light of the orders passed by the Hon'ble Supreme Court the application has to be treated as having been filed within time.

3. This Court is in agreement with the stand taken on behalf of the Applicant/Plaintiff, for the reason that in terms of the orders of the Hon'ble Supreme Court, the period of limitation was kept in abeyance during the period of Covid-19 pandemic.

4. Copy of the death certificate is placed on record and it is stated that the proposed Defendant Nos. 1a to 1d are the legal representatives of deceased Defendant No. 1.

5. In view of the above, the application is allowed, abatement is set aside and the legal representatives of Defendant No. 1 i.e. proposed Defendant Nos. 1a to 1d are permitted to be brought on record.

6. Consequential amendment be carried out within two weeks from today. Re-verification is dispensed with.

7. The time period for filing original documents and the affidavit in lieu of evidence of the witnesses of the Plaintiff is

extended by period of six weeks from today.

8. In view of Defendant Nos. 1a to 1d being brought on record, issue notices to them, returnable on **17th October, 2023**.

(MANISH PITALE, J.)