

In the court of Additional District Judge 1st, Gaya
Title Appeal No.- 67/2010

Golahi Devi and othersAppellants
V/s
Savitri Devi and others Respondents

- 18.03.2024
- 1) The record is fixed for hearing on petition dated 15.11.2022 filed on behalf of the appellant under order 22 rule 3(i) of the C.P.C.
 - 2) It has been submitted on behalf of the Ld. Counsel for the appellant that the petitioner is the appellant of this title appeal and one of the appellant namely Late Bhikhari Yadav has been died on 01.02.2021 who died living two sons namely 1. Rajendra Yadav, 2. Birendra Yadav hence this petition for substitution of the name of his heirs namely Rajendra Yadav and Birendra Yadav in place of deceased appellant Bhikhari Yadav. Rejoinder to that application is also filed by respondents.
 - 3) Having heard the Ld. Counsel for the petitioners and from the perusal of the record, it transpires that appellant Late Bhikhari Yadav died living behind his sons namely Rajendra Yadav and Birendra Yadav and they are legal heirs of the deceased. The death certificate of appellant is also attached.
 - 4) It has been held by the Hon'ble court in several judgment and order that in civil matter the approach of the court should not be of hyper technical. Rather, the court should adopt the liberal attitude while considering the petition relating to civil dispute in a civil suit, because C.P.C. is procedural law and the main object of the law to impart justice to the parties and in this case right to sue survives and is within limitation.
 - 5) Thus, in view of the above discussed fact and circumstances, petition filed on behalf of the appellant for substitution of the legal heir of the deceased appellant appears to be essential for proper adjudication of the matter and to avoid future complication between the parties. Accordingly the petition filed on behalf of the appellant dated 15.11.2022 is hereby allowed.
O/c is directed to make necessary changes.

(Dictated)
Sd/-

Additional District Judge 1st, Gaya