

In The Court of Sub Judge, Gogri
Present:-Samrandra Gandhi
Title Suit No:-138/2014

Date of order or Proceeding	Order with the Signature of the court	Office action taken with date
09/02/21	The petitioners have filed their hazri through their Ld. Counsel which is accepted only for today. The instant suit is put up for order after hearing on the petition dated 06/04/2019 filed on behalf of the petitioners namely Manorma Devi, Jawahar Lal Sharma, Dasrath Sharma, and Babu Lal Sharma under Order 22 Rule-3 C.P.C. and 151 C.P.C. along with Section-5 of the Limitation Act and U/O 22 Rule-9(2) C.P.C. for substitution of the legal heirs of the sole plaintiff namely Late Shivpujan Kumar alias Shivpujan Sharma on the title page of the plaint by deleting his name. The case record is put up for order. <u>Order</u> A petition has been filed on behalf of the defendant no.-6 to 11 on 16/04/2019 under Order 22 Rule-3 C.P.C. submitting therein inter-alia that the the sole plaintiff namely Late Shivpujan Kumar alias Shivpujan Sharma died on 08/02/2015 due to his murder. The sole plaintiff namely Late Shivpujan Kumar alias Shivpujan Sharma died leaving behind his widow namely Most. Manorma Devi W/O Late Shivpujan Kumar alias Shivpujan Sharma and three sons namely Jawahar Lal Sharma, Dasrath Sharma and Balkrishna Sharma all are sons of Late Shivpujan Kumar alias Shivpujan Sharma, R/O Vill-Goraiya Bathan, P.O.-Goraiya Bathan, P.S.-Gogri Dist.-Khagaria. It has been further submitted that after the death of the sole plaintiff namely Late Shivpujan Kumar alias Shivpujan Sharma his family was in deep grief and after establishment of the sub-divisional court, Gogri, the family members of the sole plaintiff of this case could not come to know about the transfer of the records from Khagaria civil	

<u>continued</u> 09/02/21	court to the sub-divisional civil court, Gogri, due to which they could not make Pairvi in this case and due to lack of pairvi the suit was dismissed on 15/12/2015. Thereafter a miscellaneous petition was filed vide miscellaneous case number 05/2017 for registration of the suit and thereafter the suit was restored. It has been further submitted that after restoration of this suit the above-mentioned petition under order 22 rule-3 has been filed and the petitioners have not deliberately made any delay for filing of the same. It is, therefore, prayed to substitute the legal heirs of the sole plaintiff namely Late Shivpujan Kumar alias Shivpujan Sharma in his place by deleting his name from the title page of the plaint of this suit. Furthermore the petitioner has also filed an application under order 22 rule-9 (2) C.P.C. and under section 5 of limitation act for setting aside the abatement of the suit and for condoning the delay for filing of the above-mentioned petition. Heard the Ld. Counsel on behalf of the petitioners and perused of the entire case record. After perusal of the same, it transpires that the the sole plaintiff namely Late Shivpujan Kumar alias Shivpujan Sharma of this suit has died on 08/2/2015 as evident from the petition of the plaintiff which is supported with an affidavit and the instant petition has been filed on 06-04-2019 which is delay for more than four years. But the applications under section 5 of the Limitation Act and Under Order 22 Rule-9(2) C.P.C. for condoning the delay for filing the instant petition and also for setting aside the abatement of the suit have also been filed in support of the instant petition. The legal heirs of the deceased sole plaintiff namely Late Shivpujan Kumar alias Shivpujan Sharma are ready to contest this suit. Hence the substitution of the names of the legal heirs of the defendant no.-4 namely Late Shivpujan Kumar alias Shivpujan Sharma are highly essential in the interest of justice and for just decision of this suit. Therefore, the substitution petition dated 06/04/2019 filed on behalf of the petitioner namely Most. Manorma Devi, Jawahar Lal Sharma, Dasrath Sharma, and Babu Lal Sharma is hereby allowed and the petitioners are directed to substitute the legal heirs of the the sole plaintiff namely Late Shivpujan Kumar alias Shivpujan Sharma in his place mentioned in the petition, on the title page by deleting his name from the title page.	
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<u>continued</u> 09/02/21	To 04-03-2021 for substitution and appearance of the defendants. (Samrendra Gandhi) Sub-judge Gogri. Date-09/02/21 .	