

IN THE COURT OF SUB-JUDGE-IV, LAKHISARAI
LS No. 55/2011

ORDER
13.08.2025

Present application has been filed by plaintiffs under Order XXII Rule 4 of CPC dt. 21.09.2023 with application under order XXII Rule 9 CPC and S. 5 The Limitation Act. Ld. Counsel for plaintiffs has submitted that defendant no. 01 Janardan Prasad had died on 17.03.2020 (or 18.03.2020) leaving behind his legal heirs. Plaintiffs could not file this application before because of unprecedented surge of Covid-19 cases. Legal heirs of died defendants are already on record as defendant no. 03, 04 & 05. Hence, prayer has been made to allow this application.

Rejoinder has been filed on behalf of defendants contending therein that plaintiffs and defendant nos. 01 to 05 are Patidars/ Gotiya among themselves. All of them had participated in the Shraddha Karma of defendant no. 01. Even after knowledge of the death, plaintiffs had not filed the petition for substitution within prescribed time by law. Hence, this instant petition is fit to be dismissed with costs.

Heard the Ld. Counsel of both sides and perused the case record. Perusal of case record shows that defendant no. 01 had died on 17.03.2025/ 18.03.2025 leaving behind his

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legal heirs and plaintiffs have filed this application on 21.09.2023. But plaintiffs have also filed an application under Order XXII Rule 9 CPC to set aside the abatement and S.5 The Limitation act to condone the delay. Plaintiffs have filed this application with delay because of Covid-19 pandemic.

As such delay with filing this application is hereby condoned and application filed by plaintiffs under Order XXII Rule 4 CPC, along with applications under Order XXII Rule 09 and S. 05 of The Limitation Act, is hereby allowed. Office is directed to delete the name of died defendant no. 01 in the plaint as per the application. Plaintiffs are directed to produce their witnesses in evidence.

List on.- 08.09.2025.

Kumari Jyotsna
(Kumari Jyotsna) 13/08/25
C.J. (Sr. Div.)- IV
Lakhisarai