

Title Appeal No. 132/1997

ORDER

06.01.2020

The petitioner is in attendance. A petition dated 26.11.2019 u/o 22 rule 9(2) CPC for setting aside the order of abatement of instant appeal has been moved today on behalf of petitioners submitting wherein that the petitioner is the appellant of the present appeal and the Respondent No. 01 Dulhin Lalmuni Devi has died on 12.07.2019 living behind her four sons namely Sunil Kumar, Anil Kr. Singh, Sudhir Kumar & Sachin Kumar, the legal heirs and legal representative of their late mother. The father of petitioners namely Radhe Shyam Singh who was appellant of the present appeal was himself conducting the cases of the family and petitioners were engaged with their own works, so earlier the petitioners had no knowledge about the pendency of any appeal before this learned court and they had no knowledge as to who is the advocate engaged on behalf of their father and where is the file of the case. In the meantime the father of petitioners namely Radhe Shyam Singh died on 09.03.2015 and after the substitution of the petitioners they started making enquiry about the case. After contacting the lawyer they filed the present petition to set aside the abatement of this appeal.

A petition to condone the delay has also been filed by the petitioners alongwith a substitution petition.

The counsel for the respondents has appeared before the court and has given the no objection on behalf of the respondents.

Heard the parties and perused the record. It is found that the petitioners have filed a petition to set aside the abatement of appeal alongwith substitution petition and a petition to condone the delay in filing the petition. It is found that the original appellant Radhe Shyam Singh has died on 09.03.2015 and the present petitions have been filed on 26.11.2019. However regard being had to the facts and circumstances of the present appeal, the order by which the present appeal stood abated is hereby set aside, the delay in filing the substitution petition and other petitions is hereby condoned.

The Office is directed to amend the memo of appeal accordingly.

Put on dt 13.01.2020 for final hearing.

Dictated & Corrected.

A.D.J.-XI, Sasaram.