

RCA DJ 9/26

MUKEM WATI THROUGH HER LEGAL HEIRS Vs. PREM
SINGH

07.04.2026

Present: Ld. Counsel for appellant.
Ld. Counsel for respondent.

IA 1/26 (appellants' application U/S 5 of Limitation Act 1963).

1. Reply filed. Copy supplied.
2. The present appeal has been filed by legal heirs of Late Mukem Wati (original defendant). It is the contention of appellants that the it took time for the counsel to coordinate with five legal heirs of Mukem Wati and this caused a delay of about 34 days in filing of the appeal.
3. Application is opposed on the ground that only Dharmender/appellant No. (e) is the person who contested the matter before the Trial Court and is also the authorised representative of all the LRs before this Court. Thus, it is argued that there was a delay caused because of coordination with the other legal heirs is incorrect.
4. It is settled law that usually a matter should be decided on merits and delay U/S 5 of Limitation Act should be liberally construed.
5. Considering the above, the delay of 34 days in filing of the present appeal is condoned subject to cost of Rs. 10,000/- to be paid by appellants to respondent.
6. Application is disposed off.

IA 2/26 (for stay of the impugned judgment and decree).

7. Reply filed. Copy supplied.
8. Considering the nature of dispute, the operation of impugned judgment and decree is stayed till disposal of the present appeal.
9. Application is disposed off.

IA 3/26 (appellants' application U/O 41 Rule 27 CPC for placing on record additional evidence).

10. Reply filed. Copy supplied.
11. Appellants want to bring on record a gazette notification. As per the application, a Court can take judicial cognizance of a notification. If the same is taken as correct, as per appellants themselves, there is no need for allowing any additional evidence for this Court to bring on record a gazette notification.
12. Even otherwise, it is settled law that at an appellant stage, only such evidence can be permitted by an appellate Court which was either refused to be admitted by the Trial Court though which should have been admitted; or some evidence which was not in the knowledge of the appellant despite diligence; or any such document/evidence which would enable the Court to pronounce the judgment.
13. Nothing has been pleaded in the application or it was argued before this Court which would meet the above threshold for allowing the additional evidence. Counsel for appellant argued that respondent/plaintiff's suit was under valued as the valuation of the suit property was over Rs. 12 lac as per circle rates. It is his argument that if the Ld. Trial Court had taken note of the applicable circle rates, the finding qua valuation of suit would have come in favour of appellant. This argument essentially

touches the legality of the impugned judgment and does not lay a ground for allowing additional evidence. Thus, the application is misconceived. It is dismissed.

14.To come up for arguments in the main appeal on 06.05.2026.

Aashish Gupta
DJ-01/NE/KKD/DELHI
07.04.2026