

In the Court of Additional District Judge, Court No. 03, Deoria

Civil. Appeal No. 11/2017

Nirbhay Shankar & Anr. Vs. Hardev & Oths.

CNR No-UPDE010003692017

29.10.2024

Case called out. Learned counsel for both parties are present. An application 47KA2 is preferred by appellant stating therein that respondent no. 7 is died about one year before. It is also submitted that appellant has no knowledge about the death of the respondent no. 7. It is further submitted that his legal representative respondent nos. 5 and 6 are already party in the appeal. Therefore, it is submitted that no question of limitation arises. On that basis it is requested for the word "Dead" be written against the name of respondent no. 7 and consequential amendment is requested for.

Learned counsel for respondents has objected orally on the ground that the application is filed about one year delay. Therefore, it is requested for dismissal of the same.

Heard and perused the record.

Application 47KA2 is supported with affidavit the respondent no. 7 Smt. Vindhya wasini Devi is died prior to one year before filing the application dated 14.07.2023. No legal representatives of the respondent no. 7 have been required to be separately substituted because they are already party as respondent nos. 5 and 6. The application is filed about one year delay, for which compensation in terms of cost may be provided to the respondents. Therefore, in the interest of justice, the application is liable to be allowed on costs.

ORDER

Application 47KA2 is allowed on costs Rs. 100/- (Rs. Hundred only).
Let amendment be carried out within two days.

List on 26.11.2024 for disposal 45KA2.

(Sanjay Kumar Singh-III)
Addl. District Judge,
Court No.3, Deoria.