

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

SA No. 496 of 2014

Jagdish **Versus** Amila Bai & Anr.

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27/11/2015	Shri Parag Kotecha, counsel for the appellants. Shri Kaushal Yadav, counsel for respondent No.1. Smt. M. Asha, Panel Lawyer for the State/respondent No.2. Heard on I.A.No.4, application for condonation of delay under Section 5 of the Limitation Act. It has been submitted that the appeal was filed by Jagdish. The applicants are the wife, daughters & sons of Late Jagdish. Litigation was being looked after by Late Jagdish only. After death of Jagdish, the applicants could not move application for substitution of legal representatives as they were not aware of various pending proceedings. It was only when they happened to meet counsel and informed regarding death, that they were advised that an application would be required to be filed to substitute legal representatives. On the other hand, learned counsel for respondent No.1 opposed the prayer and submitted that the delay is not clearly explained and there is no day to day explanation apart from being afterthought. Upon taking into consideration the submissions, the application is allowed. Delay in filing application under Order 22 Rule 9 CPC for setting aside abatement is condoned. Heard on I.A.No.3, application for setting aside	

abatement.

Upon due consideration that the right to suit survives, the application is allowed and abatement, if any, is set aside.

Also heard on I.A.No.2, application for substitution and bringing Lrs. of deceased- appellant Jagdish.

The application is allowed as not opposed. Let legal representatives of deceased appellant -Jagdish be brought on record and substituted in place of Jagdish as appellants in the instant appeal within a period of 2 weeks.

List it for consideration of application, I.A No.1, for stay after 3 weeks.

Sd/-
(Manindra Mohan Shrivastava)
Judge