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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(OS) 14/2024; I.As. No. 464/2024, 466/2024, 467/2024
& 30961/2024

BEANT KAUR

.....Plaintiff

Through: Appearance not given.

versus

DR. HARMINDER KAUR AND ORS.

.....Defendants

Through: Mr. Sakil Ahamad and Mr.
Harvinder Pal Singh, Advs.
(through VC)

CORAM:

**JOINT REGISTRAR (JUDICIAL) SH. GAGANDEEP
JINDAL (DHJS)**

ORDER

20.01.2026

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Proceedings are being conducted through hybrid mode.

**I.A. No. 10151/2025 (by applicant Ms. Manjit Sikka u/O
XXII Rule 3 CPC for impleadment of (i) Ms. Manjit
Sikka, (ii) Ms. Satinder Dhillon and (iii) Ms. Tajinder
Mann daughters of plaintiff as LR's of deceased plaintiff)**

1. Arguments heard.
2. During the arguments, Ld. Counsel for the defendants submits that there is delay of 142 days in filing the captioned IA and no application for setting aside the abatement has been filed.
3. However, in the case of ***Om Prakash Gupta @ Lalloowa & Ors. Vs. Satish Chandra Civil Appeal no. 13407/2024*** decided by Hon'ble Supreme Court of India on 11.02.2025 wherein the following observations have been made:



“We find it difficult to agree with such reasoning. When an application praying for substitution had been made, then, even assuming that it does not have an explicit prayer for setting aside the abatement, such prayer could be read as inherent in the prayer for substitution in the interest of justice. We draw inspiration for such a conclusion, having read the decision in Mithailal Dalsangar Singh v. Annabai Devram Kini. This Court reiterated the need for a justice-oriented approach in such matters. Inter alia, it was held that prayer to bring on record heir(s)/legal representative(s) can also be construed as a prayer for setting aside the abatement. The relevant passage reads as under:

“8. Inasmuch as the abatement results in denial of hearing on the merits of the case, the provision of abatement has to be construed strictly. On the other hand, the prayer for setting aside an abatement and the dismissal consequent upon an abatement, have to be considered liberally. A simple prayer for bringing the legal representatives on record without specifically praying for setting aside of an abatement may in substance be construed as a prayer for setting aside the abatement. So also a prayer for setting aside abatement as regards one of the plaintiffs can be construed as a prayer for setting aside the abatement of the suit in its entirety. Abatement of suit for failure to move an application for bringing the legal representatives on record within the prescribed period of limitation is automatic and a specific order dismissing the suit as abated is not called for. Once the suit has abated as a



matter of law, though ~~it~~ may not have been passed on record a specific order dismissing the suit as abated, yet the legal representatives proposing to be brought on record or any other applicant proposing to bring the legal representatives of the deceased party on record would seek the setting aside of an abatement. A prayer for bringing the legal representatives on record, if allowed, would have the effect of setting aside the abatement as the relief of setting aside abatement though not asked for in so many words is in effect being actually asked for and is necessarily implied. Too technical or pedantic an approach in such cases is not called for.

9. The courts have to adopt a justice-oriented approach dictated by the uppermost consideration that ordinarily a litigant ought not to be denied an opportunity of having a lis determined on merits unless he has, by gross negligence, deliberate inaction or something akin to misconduct, disentitled himself from seeking the indulgence of the court. The opinion of the trial Judge allowing a prayer for setting aside abatement and his finding on the question of availability of 'sufficient cause' within the meaning of sub-rule (2) of Rule 9 of Order 22 and of Section 5 of the Limitation Act, 1963 deserves to be given weight, and once arrived at would not normally be interfered with by superior jurisdiction.

10. In the present case, ... such an approach adopted by the Division Bench verges on too fine a technicality and results in injustice being done. There was no order in writing passed by the court dismissing the entire suit as having abated. The suit has been treated by the Division



Bench to have abated its entirety by operation of law. For a period of ninety days from the date of death of any party the suit remains in a state of suspended animation. And then it abates. The converse would also logically follow. Once the prayer made by the legal representatives of the deceased plaintiff for setting aside the abatement as regards the deceased plaintiff was allowed, and the legal representatives of the deceased plaintiff came on record, the constitution of the suit was rendered good; it revived and the abatement of the suit would be deemed to have been set aside in its entirety even though there was no specific prayer made and no specific order of the court passed in that behalf.”

4. In view of these observations, the prayer for setting aside the abatement is implicit in the captioned IA for substitution of LRs of deceased plaintiff.
5. In view of the provisions of Chapter 2 Rule 3 (37) Delhi High Court (OS) Rules, 2018, the Registrar has no jurisdiction to pass order for substitution of LRs of deceased party where a question of setting aside the abatement of the cause is involved.
6. Thus, the undersigned is required to conduct inquiry as to who is the legal heir of the plaintiff for the purpose of proceeding with the present suit.
7. It is settled legal position that the determination under Order XXII Rule 5 of CPC is summary in nature and for limited purpose as to who should be brought on record for the purpose of continuing with suit and determining particular person as LR would have no effect on final decision. The determination as to the legal heir would be



limited to the question as to who should be brought on record in place of deceased for the purpose of continuing the suit alone and nothing beyond that.

8. There is no dispute as to how many LR's of deceased plaintiff are there.
9. Learned counsel for LR's of plaintiff submits that the details of the LR's of deceased plaintiff has been mentioned in the captioned IA and in the rejoinder as well.
10. As per pleadings of both the parties there are total six LR's of deceased plaintiff i.e. Ms. Manjeet Sikka (daughter), Ms. Satinder Dhillon (daughter), Ms. Tajinder Maan (daughter), Dr. Harminder Kaur (wife of pre-deceased son), Dr. Jasdeep S Dhillon (son of pre-deceased son) and Dr. Gagandeep Dhillon (son of pre-deceased son).
11. Now, in the present matter, the death of the plaintiff is not disputed. It is also not disputed that there is no other LR's as mentioned in the application and rejoinder to the reply filed on behalf of the LR's of deceased plaintiff.
12. Thus, keeping in view the applications moved on behalf of applicant i.e. LR's of deceased plaintiff and the material available on record, the undersigned is of the opinion that the LR's of the deceased plaintiff as mentioned in the application and in the rejoinder may be substituted as LR of the plaintiff in the present matter.
13. With due respect, it is submitted that the opinion and observation, if any, of the undersigned would not tantamount as opinion on merits of the matter as the observations have been made only for the purpose of



conducting inquiry with respect to the legal heirs to be substituted in place of the deceased plaintiff.

14. In view of proviso to Rule 3 (37), Chapter II of Delhi High Court (Original Side) Rules, 2018, let the captioned IAs be placed before the Hon'ble Court for further directions on **11th February, 2026**.

GAGANDEEP JINDAL (DHJS)
JOINT REGISTRAR (JUDICIAL)

JANUARY 20, 2026/PU

[Click here to check corrigendum, if any](#)