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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 16612/2006**
TOBU MAZDOOR SANGH REGD.,

.....Petitioner

Through: Sh. Navin Kumar, Adv.

versus

TOBU ENTERPRISES LTD.

.....Respondent

Through: Sh. Inderjit Singh, Adv.

CORAM:
SHRI SUNIL KUMAR KOUSHAL, REGISTRAR

% **ORDER**
01.09.2022

C.M. Nos.46181/2018 (u/O 22 Rule 3), 46182/2018 (for delay of 3577 days in filing C.M.), 46183/2018(u/O 22 Rule 3), 46184/2018 (for delay of 4554 days in filing C.M.), 46185/2018 (u/O 22 Rule 3), 46186/2018 (for delay of 4974 days in filing C.M.)

C.M. Nos.46181/2018 is an application under Order 22 Rule 3 CPC filed by the petitioner seeking substitution of legal heirs of deceased proposed petitioner No.18-Sh. Rama Shankar, who is stated to have died on 12.09.2010.

C.M. Nos.46182/2018 is an application under Section 5 of the Limitation Act filed by the petitioner seeking condonation of delay of 3577 days in filing the C.M. Nos.46181/2018.

C.M. Nos.46183/2018 is an application under Order 22 Rule 3



CPC filed by the petitioner seeking substitution of legal heirs of deceased proposed petitioner No.19-Sh. Amar Nath, who is stated to have died on 11.01.2006.

C.M. Nos.46184/2018 is an application under Section 5 of the Limitation Act filed by the petitioner seeking condonation of delay of 4554 days in filing the C.M. Nos.46183/2018.

C.M. Nos.46185/2018 is an application under Order 22 Rule 3 CPC filed by the petitioner seeking substitution of legal heirs of deceased proposed petitioner No.17-Sh. Ratan Chand, who is stated to have died on 17.11.2004.

C.M. Nos.46186/2018 is an application under Section 5 of the Limitation Act filed by the petitioner seeking condonation of delay of 4974 days in filing the C.M. Nos.46186/2018.

Pleadings qua these applications are complete.

It is stated by the respondent in its reply that these applications have been filed by the petitioners after a laps of more than a decade, hence, applications filed by the petitioner, are liable to be dismissed. The main contention of the respondent is that since these applications are highly belated, the writ petition qua deceased proposed petitioners stands abated.

Learned counsel for the petitioners/applicants submits that earlier in this writ petition, workmen/petitioners were represented by the Labour Union. However, presently the said Labour Union has become non-functional, hence, delay is occurred in filing the applications seeking substitution of proposed petitioners No.17, 18 & 19. It is further stated by learned counsel for the



petitioners/applicants that this writ petition is already represented by other petitioners on record through Labour Union, therefore, there is no abatement of the present writ petition and the legal representatives of deceased workmen have right to prosecute the cause of action as originally framed and L.Rs are not making any claim, to which original writ petition through Labour Union was not entitled.

In view of the rival contentions of the parties and at their joint request for placing the matter before the Hon'ble Court for directions, list the matter before the Hon'ble Court, for directions, on **12.12.2022**.

REGISTRAR

SEPTEMBER 1, 2022/KCT