



REGISTRAR

FEBRUARY 9, 2026

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ RFA 361/2015

RAJANI SAXENA .....Appellant

Through: Mr. Imran Khan, Adv.

versus

RAJENDRA YADAV & ORS .....Respondent

Through: Mr. Pankaj Bagga, advocate.

**CORAM: REGISTRAR MS. PANNA DUTTA**

**ORDER**

% **09.02.2026**

**CM APPL.43866/2024 (u/O 22 Rule 3 CPC moved by proposed sole LR of appellant seeking his substitution) & CM APPL.43867/2024 (condonation of delay of 54 days)**

1. It is stated in the application that deceased-appellant was the sole appellant and she expired on 03.03.2024 and is survived by the applicant-Mr.Anuj Kumar.
2. In the application seeking condonation of delay, it is stated that the wife of the applicant came to know about the pendency of the present matter only on 22.05.2024 in a case between the same parties (CT Case No.536416/2016).
3. A perusal of the order-sheets reveal that despite opportunity, no reply has been filed on behalf of respondent no.1 since April 2025. It is the case of the applicant that respondent nos. 2 to 6 are supporting the case of the appellant in the present Appeal and this submission is recorded in the Order dated 08.02.2016.



4. In view of the above, delay of 54 days in filing the application under Order XXII, Rule 3, CPC is condoned and the applicant-Mr.Anuj Kumar is impleaded as the LR of the deceased-appellant.
5. Applications stand disposed of.

**CM APPL.78930/2025 (u/O XXII Rule 4 CPC oved by Mr.Anuj - LR of deceased-appellant for impleadment of LRs of R-5) & CM APPL.78931/2025 (condonation of delay of 6 years & 8 months moved by Mr.Anuj-LR of deceased-appellant)**

1. This application is filed by Sh. Anuj Kumr (Son)/legal heir of deceased –Appellant seeking impleadment of LRs of deceased-Respondent no.5.
2. It is stated in the application that Respondent-5 – Smt. Saroj expired on 08.03.2019 and is survived by (i) Ms. Jyoti Saxena (daughter) (ii) Mr.Neeraj Saxena (daughter) (iii) Ms. Shobha Saxena (daughter).
3. In para 4 of CM Appl.78931/2025 (delay) it is stated that as recorded in the Order dated 08.02.2016, Respondent-2 to Respondent-6 are not contesting and their interest is same as that of the Appellant.
4. It is further stated that that the appellant/applicant come to know about the death of Respondent-5 only on 16.09.2025, as recorded in the application (CM Appl.8931/2025).
5. Ld. Counsel for the Appellant submits that the Respondent 2 to 6 are supporting the appellants (as recorded in order dated 08.02.2016) and requests that the application be allowed and LRs of deceased Respondent -5 be impleaded/ brought on



record.

6. Ld. Counsel for Respondent -1 submits that the applications may be allowed subject to payment of costs.
7. Learned Counsel for the appellants submits that the appellant is not in a good financial condition and the grand-daughter of deceased-appellant/Smt. Rajni saxena is a budding lawyer and will not be able to afford costs. It is submitted that this case is being represented on behalf of the appellant –Sh. Anuj Kumar, pro-bono.
8. The matter was admitted for hearing vide Order dated 08.02.2016 when the submission of the learned counsel for the appellant that the respondent nos. 2 to 6 are supporting the case of the appellant was recorded. Respondent no.5 expired on 08.03.2019. The matter was on *regular category* since and was listed on 02.08.2024 when Mr. Anuj Kumar-LR of deceased-appellant moved application under Order XXII, Rule 3, CPC seeking impleadment. As is reflected in the Order dated 16.09.2025, the factum of death of respondent no.1 came to the knowledge of Mr. Anuj Kumar-LR of deceased-appellant during the course of listing of his impleadment application.
9. The Apex Court in ***Perumon Bhagvathy Devaswom vs Bhargavi Amma [(2008) 8 SCC 321]*** observed as under:

“11. The words “sufficient cause for not making the application within the period of limitation” should be understood and applied in a reasonable, pragmatic, practical and liberal manner, depending upon the facts and circumstances of the case, and the type of case. The words ‘sufficient



cause' in Section 5 of Limitation Act should receive a liberal construction so as to advance substantial justice, when the delay is not on account of any dilatory tactics, want of bona fides, deliberate inaction or negligence on the part of the appellant.

(ii) In considering the reasons for condonation of delay, the courts are more liberal with reference to applications for setting aside abatement, than other cases. While the court will have to keep in view that a valuable right accrues to the legal representatives of the deceased respondent when the appeal abates, it will not punish an appellant with foreclosure of the appeal, for unintended lapses. The courts tend to set aside abatement and decided the matter on merits. The courts tend to set aside abatement and decide the matter on merits, rather than terminate the appeal on the ground of abatement.

(iii) The decisive factor in condonation of delay, is not the length of delay, but sufficiency of a satisfactory explanation.

(iv) The extent or degree of leniency to be shown by a court depends on the nature of application and facts and circumstances of the case. For example, courts view delays in making applications in a pending appeal more leniently than delays in the institution of an appeal. The courts view applications relating to lawyer's lapses more leniently than applications relating to litigant's lapses. The classic example is the difference in approach of courts to applications for condonation of delay in filing an appeal and applications for condonation of delay in re-filing the appeal after rectification of defects.

## 10. The hon'ble Supreme Court of India in the judgment *Om*



***Prakash Gupta @ Lalloowa (now deceased) & others versus  
Satish Chandra (now deceased) (Civil Appeal No.13407/2024  
(dated 11.02.2025) further observed as under:***

“..... when an appeal is pending in a High Court, dates of hearing are not fixed periodically. Once the appeal is admitted, it virtually goes into storage and is listed before the Court only when it is ripe for hearing or when some application seeking an interim direction is filed. It is common for appeals pending in High Courts not to be listed at all for several years. (In some courts where there is a huge pendency, the non-hearing period may be as much as ten years or even more.) When the appeal is admitted by the High Court, the counsel inform the parties that they will get in touch as and when the case is listed for hearing. There is nothing the appellant is required to do during the period between admission of the appeal and listing of the appeal for arguments (except filing paper books or depositing the charges for preparation of paper books wherever necessary). The High Courts are overloaded with appeals and the litigant is in no way responsible for non-listing for several years. There is no need for the appellant to keep track whether the respondent is dead or alive by periodical enquiries during the long period between admission and listing for hearing.”

11. In view of the above, delay in filing the application under Order XXII, Rule 4, CPC is condoned and the present applications are allowed and LR's of deceased – Respondent-5, mentioned above, are brought on record.

Applications stand disposed of.



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12. Amended memo of parties be filed within six weeks.
13. List the matter before the Hon'ble Court in due course.

**REGISTRAR**

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