

**RFA No. 38 of 2009 a/w Cross Objections No. 340 of 2009**

**29.08.2019**

**Present:** Mr. Dinesh Thakur, Additional Advocate General with M/sAmit Kumar Dhumal and Divya Sood, Deputy Advocate Generals and Mr. Sunny Datwalia, Assistant Advocate General, for the appellants/applicants/non-objectors.

Mr. G.S. Rathore, Advocate for respondents/non-applicants No. 1 to 7, 9 to 15, 17 to 24 and LRs No. 8(a), 8(e) to 8(i), 8(n) to 8(p), 8(r) to 8(t) & 8(v)/Cross-objectors.

**CMPs No. 5980 & 8552 of 2019**

By way of these application, a prayer has been made for recalling order dated 11.05.2018, vide which this appeal was ordered to be dismissed for non-prosecution on account of the applicants/appellants not taking steps to bring on record legal representatives of deceased-respondent No. 16 and also for deletion of name of respondent No. 16, Maina Devi, on the ground that her legal representatives are already on record as respondents No. 1, 15, 17, 18 and 19.

Learned Additional Advocate General submits that in the facts of the case as the legal representatives of deceased-respondent No. 16 were already on record, erroneously this fact could not be brought to the notice of the Court when the case was dismissed for non-prosecution on account of failure of the appellant to take steps for substitution of deceased-respondent No. 16.

He further submits that even otherwise, at the most, the appeal could have been dismissed for non-prosecution qua the

legal representatives of deceased-respondent No. 16 and not qua all respondents.

Mr. G.S. Rathore, learned Counsel for the appearing non-applicants has also fairly submitted that it is a matter of record that legal representatives of deceased-respondent No. 16 were already on record. In these peculiar circumstances, he submits that appearing respondents shall be having no objection in case applications are allowed, as prayed for.

Having heard learned Counsel for the parties and having perused the averments made in the application, the same are allowed. Order dated 11.05.2018, vide which the appeal was dismissed for non-prosecution on account of failure of applicants/appellants to take steps for substitution of deceased-respondent No. 16, is recalled. The appeal is ordered to be restored to its original number. Name of respondent No. 16 is also ordered to be deleted from the array of respondents and the factum of legal representatives of said respondents being on record as respondents No. 1, 15, 17, 18 and 19 is taken on record. The application stands disposed of accordingly.

**CMP(M) Nos. 1181 and 1182 of 2019 in Cross  
Objections No. 340 of 2019**

By way of these applications, applicants have prayed for deletion of name of deceased-cross objector, Maina Devi, on the ground that her legal representatives are already on record as cross objectors No. 1 and 6. In view of the averments

made in the applications, the same are allowed as prayed for. Name of Maina Devi, is ordered to be deleted from the array of cross objectors and the factum of her legal representatives being on record is taken on record.

**RFA No. 38 of 2009 & Cross Objections No. 340/09**

Amended memo of parties be filed within a period of four weeks.

List in due course.

**(Ajay Mohan Goel)**  
**Judge**

August 29, 2019  
*(narender)*