

16.03.2017

Present: Mr. Sanjeev Sood, Advocate for the appellant.
Mr. Neeraj Gupta, Advocate for respondents No. 3(b) to 3(e).

CMP(M) Nos. 98 of 2016 and 12 of 2017.

As per report of the Registry, no steps have been taken for the service of proposed legal representatives. Learned counsel appearing for the applicant/appellant submits that one more opportunity be granted to the applicant/appellant for taking steps for service of proposed legal representatives. He further submits that he may be permitted to effect dasti service. Request allowed. Let dasti notice be issued to the proposed legal representatives for 27.04.2017 through applicant/appellant on taking steps within a period of one week.

CMP(M) No. 97 of 2016.

2. By way of this application filed under Order 22 Rules, 4, 9 and 11, read with Section 151 of the Code of Civil Procedure and Section 5 of the Limitation Act, applicant has prayed for condonation of delay in bringing on record the legal representatives of deceased-respondent No. 3, who is stated to have died during the pendency of the present appeal as well as for setting aside the abatement and for bringing the proposed legal representatives of deceased-respondent No. 3 on record.

3. As per report of the Registry, proposed legal representatives stand served. Mr. Neeraj Gupta, learned counsel

has put in appearance on behalf of proposed legal representatives No. 3(b) to 3(e). Despite service, no one is present on behalf of proposed legal representative 3(a), accordingly, she is proceeded against *ex parte*.

4. I have heard the learned counsel for the parties and gone through the averments of the application which are duly supported by an affidavit in which it is averred that delay in filing the application to bring on record the legal representatives of deceased-respondent No. 3 is not intentional but is bonafide as the factum of death of respondent No. 3 during the pendency of the appeal was not in the knowledge of the applicant. In view of the averments made in the present application as well as in the interest of justice, this application is allowed. Delay in filing the application to bring on record the legal representatives of deceased-respondent No. 3 is condoned. Abatement is set aside and proposed legal representatives, whose details are given in para three of the application, are ordered to be substituted as respondent No. 3(a) to 3(e) in place of deceased-respondent No. 3. Amended memo is taken on record. Application stands disposed of.

CMM(M) No. 160 of 2017.

5. Notice. Learned counsel for the appellant/applicant prays for and is permitted to serve proposed legal representatives dasti for **27.04.2017**. Steps in this regard be taken within a week.

RSA No. 211 of 2007.

6. Let notice be issued to newly added respondent No. 3(a) for 27.04.2017, intimating her that the case shall be taken up for hearing on the said date.

List on **27.04.2017**.

(Ajay Mohan Goel)
Judge

16th March, 2017.
(narender)