

Daropati (since deceased) v. Geeta Devi

RSA No. 61 of 2017

16.5.2023 Present: Mr. Romesh Verma, Senior Advocate with Mr. Sumit Sharma, Advocate, for the appellant.

Ms. Rinki Kashmiri, Advocate, for respondent No.1.

CMP(M) Nos. 459 and 462 of 2023

By way of instant applications filed under Order 22 Rules 3 and 9 CPC and Section 5 of the Limitation Act, prayer has been made by the applicant for bringing him on record as LRs of deceased appellant Smt. Daropati, after condonation of delay in maintaining the application bearing CMP(M) No. 459 of 2023 and setting aside abatement, if any.

Having carefully perused averments contained in the application, which is duly supported by an affidavit, this court finds that delay in bringing on record the LRs of deceased appellant is neither intentional nor willful, rather same has occurred on account of circumstances, which were completely beyond the control of the applicant and as such, same deserves to be condoned. Accordingly, for the reasons stated in the application bearing CMP(M) No. 462 of 2023, delay, if any, in bringing on record the LRs of deceased appellant is condoned. Abatement, if any, is also set-aside.

Careful perusal of averments contained in the application bearing CMP(M) No. 459 of 2023 reveals that appellant Smt. Daropati has expired on 1.11.2022, leaving behind applicant as legal representative. Since right to sue survives in favour of the person proposed to be substituted in place of deceased appellant, there appears to be no impediment

in accepting the prayer made in the application and accordingly, same is allowed and applicant Baldev Singh, s/o late sh. Dhian Singh, is ordered to be substituted in place of deceased appellant, whose name is otherwise ordered to be deleted from the array of parties. Registry to carry out necessary correction in the memo of parties on the basis of amended memo of parties to be filed within a period of one week. Applications stand disposed of.

CMP No. 3232 of 2023

For the reasons stated in the application, same is allowed. Application stands disposed of accordingly.

RSA No. 425 of 2015

List for hearing on 4.9.2023.

May 16, 2023
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**(Sandeep Sharma),
Judge**