

RSA No. 484 of 2000

1.6.2016

Present: Mr. S.D Gill, Advocate, for the appellant.

Mr. K.D Sood, Sr. Advocate with Ms. Vandana Thakur, Advocate for respondents No. 1,2,3,6 (a) to 6 (d).

CMP No. 512 of 2001

The petition at hand stood instituted in the Registry of this Court in the year 2001, yet no reply thereto stands furnished by the non-applicant. Consequently his right to file reply stands closed. Both the Courts below have recorded concurrent findings in favour of the plaintiff. The appeal stands admitted on 22.12.2000. Given the factum that the non-applicant holds possession of the suit property qua which the applicant has secured a decree of possession from two Courts, the ends of justice warrant that since the non-applicant is enjoying its usufruct necessarily hence in case the appeal of the appellant/defendant hereat fails, the interests thereon of the defendant would stand prejudiced for want of the defendant/appellant not depositing in the Registry of this Court the apposite mesne profits disbursement whereof would occur only in case the appeal against the concurrent findings recorded by the Courts below in favour of the applicants fails. Since the relevant Annexure appended to the application at hand displays of the defendant/appellant drawing by using the suit property profits in the sum of Rs. 14,527/- per annum, a

part whereof he is presumed to be utilizing for the upkeep of the property besides for the upkeep of his family, the order of 10.1.2001 is modified to the extent of the defendant/non-applicant henceforth regularly in the first week of every month depositing in the Registry of this Court a sum of 400/- per-mensen. However disbursement of the aforesaid sum shall be made subject to the final outcome of the instant appeal. The application stands disposed of.

CMP No. 1067 of 2007 & CMP No. 798/2011

Respondent No.7 during the pendency of the appeal before this Court expired on 14.4.2006. Since the application was to be preferred before this Court within 90 days from the date of her demise yet when the application stands preferred hereat after three months, consequently a prayer has been made therein for condoning the delay as has occurred in the belated institution of the application at the instance of the applicant. Given the good and sound reason portrayed in paragraph 2 of CMP No. 1067 of 2006 for the occurrence of delay, contents whereof stand supported by an affidavit, constrains a conclusion from this Court of the applicant standing deterred by plausible reasons to not within time institute the apposite application before this Court. Consequently, the delay if any as stands begotten at the instance of the applicant to institute the apposite application stands condoned. Abatement, if any, stands set aside. Since for a continuation of the appeal

before this Court, the substitution of the deceased respondent No. 7 by her LRs disclosed in the apposite paragraphs of the CMP No. 798/2011 is imperative. Accordingly the LRs of the aforesaid deceased respondent No.7 are directed to be impleaded in her place in the array of respondents. Notice be issued to the newly added LRs of the deceased aforesaid on steps being taken within one week, returnable within three weeks thereafter. The application stand disposed of.

CMP(M) No. 770 of 2009

Respondent No.8 (b) during the pendency of the appeal before this Court expired on 13.5.2009. Since for a continuation of the appeal before this Court, the substitution of the deceased respondent No. 8(b) by his LRs disclosed in the apposite paragraph of the application is imperative. Accordingly the LRs of the aforesaid deceased respondent No.8 (b) are directed to be impleaded in her place in the array of respondents. Notice be issued to the newly added LRs of the deceased aforesaid on steps being taken within one week, returnable within three weeks thereafter. The application stand disposed of.

CMP No. 973 of 2011

Amended memo of parties already placed on record. The application stands disposed of.

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The learned counsel for the parties pray for
time to ascertain the status of the parties. Prayer allowed.
List after two weeks.

(Sureshwar Thakur),
Judge.

June 1, 2016
(priti)