

State of H.P. versus Jagta

RSA No. 326 of 2015

06.05.2026 Present: Mr. H.S. Rawat, Additional Advocate General, for the appellant.
Ms. Shrutika Chauhan, Advocate vice Mr. Dheeraj K. Vashisht, Advocate for the proposed legal representatives of sole respondent.

CMP (M) Nos. 311 & 312 of 2026

Reply to the applications not filed, despite opportunities granted. Further adjournment for this purpose is not justifiable, as such, the right of the non-applicant to file reply is ordered to be closed by the order of the Court.

2. By way of the present applications, indulgence of this Court has been sought to bring on record the legal representatives of sole respondent Jagta, who, as per the application, has expired on 23.10.2020, leaving behind his legal representatives, named in para 4 of the application, after condoning the delay and setting aside the abatement, if any.

3. The delay of 4 years, 11 months and 29 days, in moving the application has been sought to be condoned, mainly on the ground that the appeal was admitted on 17.08.2015, when the parties were directed to maintain status qua qua the nature and possession of the

suit land during the pendency of the appeal. Thereafter, the same came up on board on 04.12.2025, after a gap of about ten years, when the counsel representing the respondent has brought on record the factum of death of sole respondent.

4. Although, reply to the application, has not been filed, however, the application has been contested by tooth and nail.

5. Heard.

6. Law regarding impleadment of the legal representatives has elaborately been discussed by Hon'ble Supreme Court in case titled as '**Perumon Bhagvathy Devaswom versus Bhargavi Amma (dead) by LRs and others**', reported in **(2008) 8 SCC 321**. Relevant paragraphs 13 and 16 of the judgment are reproduced, as under:

"13. The principles applicable in considering applications for setting aside abatement may thus be summarized as follows

(i) 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 bonafides, 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 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 refiling the appeal after rectification of defects.

(v) Want of 'diligence' or 'inaction' can be attributed to an appellant only when something required to be done by him, is not done. When nothing is required to be done, courts do not expect the appellant to be diligent. Where an

appeal is admitted by the High Court and is not expected to be listed for final hearing for a few years, an appellant is not expected to visit the court or his lawyer every few weeks to ascertain the position nor keep checking whether the contesting respondent is alive. He merely awaits the call or information from his counsel about the listing of the appeal.

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16. *In contrast, 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. When an appeal is so kept pending in suspended animation for a large number of years in the High Court without any date being fixed for hearing, there is no likelihood of the appellant becoming aware of the death of the respondent, unless both lived in the immediate vicinity or were related or the court issues a*

notice to him informing the death of the respondent.”

7. Similar view has again been reiterated by the Hon'ble Supreme Court in ***Om Prakash Gupta @ Lalloowa (Now Deceased) through LRs & Others versus Satish Chandra (Now Deceased) through LRs, AIR 2025 SC 1201.***

8. If the facts and circumstances of the present case are seen in the light of the above decisions of the Hon'ble Supreme Court, this Court is satisfied that the applicant has shown the sufficient cause to condone the delay. Consequently, the delay is condoned and the proposed legal representatives of respondent Jagta are ordered to be brought on record as respondents No.1(a) to 1(c), after setting aside the abatement. Amended memo of parties annexed with the application be taken on record.

9. The application stands disposed of.

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Amended memo of parties, as well as, power of attorney on behalf of respondent No.1(a), be filed within a period of four weeks.

**(Virender Singh)
Judge**

May 06, 2026 (ps)