

RFA No. 92 of 2015

2.3.2021 Present:

Mr. Sudhir Bhatnagar and Mr. Arvind Sharma, Additional Advocates General with Ms. Svaneel Jaswal, Deputy Advocate General, for the appellant-State.

Ms. Rupinder Singh Thakur, Advocate, for respondents Nos. 1, 7, 8, 10, 13 to 15 and 18.

CMP(M)'s Nos. 1226 and 1227 of 2019

By way of instant applications filed under Order XXII, rules 4 and 9 read with S.151 CPC and S. 5 of Limitation Act, prayer has been made by the appellant for bringing on record legal representatives of deceased respondent No. 16, Kamal Kant, who has expired on 17.8.2017, leaving behind legal representatives as detailed in para-3 of the application. Mr. Rupinder Singh Thakur, Advocate has put in appearance on behalf of the proposed legal representatives. He states that he does not have any objection in case above captioned applications are allowed and persons detailed in para-3 of application are ordered to be substituted in place of respondent N9. 16.

Having heard learned counsel for the parties and perused the averments contained in the applications which are dully supported by affidavits, as well as documents annexed to the application, this Court finds that respondent No. 16 Kamal Kant died on 17.8.2017 but since factum of death was not in the knowledge of the appellant, application seeking impleadment of legal representatives came to be filed after an inordinate delay. Further, having perused explanation rendered in the applications, this Court is convinced and satisfied that the delay in maintaining the application for bringing on record legal representative of respondent No. 16 is neither willful nor intentional rather on

account of circumstances, which were completely beyond the control of the applicant, as such, delay, if any, in maintaining the application for impleadment is condoned. Abatement, if any, is also set aside. Since right to sue legal representatives exists in favour of the appellant, there appears to be no impediment in accepting the prayer made in the present application and same is allowed. Persons detailed in para-3 of the application are ordered to be substituted in place of respondent NO. 16, whose name is otherwise ordered to be deleted from the array of parties. Registry to carry out necessary corrections in the memo of parties on the basis of amended memo of parties annexed with the application. Applications stand disposed of. Since Mr. Rupinder Singh Thakur, Advocate has instructions to appear on behalf of newly impleaded legal representatives, there is no need to issue notice to them.

CMP(M)'s Nos. 1224, 1225, 1227 and 1228 of 2019

Affidavits of persons stating therein that they have no objections in case Jitesh Kumar is brought on record as legal representative of deceased respondent, stand filed. Learned Additional Advocate General prays for and is granted ten days' time to ascertain correctness and genuineness of the same on or before next date of hearing.

CMP's Nos. 8740 and 8741 of 2020

Reply, if any, be filed within ten days, failing which right to file the same shall stand closed.

List on **16.3.2021**.

(Sandeep Sharma)
Judge