

28.10.2021 Present: Mr. K.D. Sood, Senior Advocate, with Mr. Het Ram Thakur, Advocate, for the appellants.

Mr. Neeraj Gupta, Senior Advocate, with Mr. Pranjal Munjal, Advocate, for respondents No. 1(a) to 1(d).

Mr. Y.P. Sood, Advocate, for respondents No. 3(a) and 3(b).

None for the remaining respondents.

CMP(M) No. 893 of 2021

By way of this application filed under Order 22, Rules 3 and 11 read with Section 151 of the Code of Civil Procedure, a prayer has been made to bring on record the legal representatives of deceased appellant No. 3-Sardar Sarabjit Singh Kochhar, who is stated to have died during the pendency of this appeal on 15.05.2021. The details of the proposed legal representatives are mentioned in para-2 of the application.

No reply is intended to be filed to the application.

Having heard learned counsel for the parties and after perusing the averments made in the application, the same is allowed, as prayed for and name of appellant No. 3-Sardar Sarabjit Singh Kochhar is ordered to be deleted from the Memo of Parties and the names of proposed legal representatives are ordered to be substituted as appellants No. 3(a) to 3(c) in place of the deceased appellant. Application stands disposed of.

CMP(M) No. 1546 of 2018

By way of this application filed under Order 22, Rules 3, 9, 10 and 11 read with Section 151 of the Code of Civil Procedure and Section 5 of the Limitation Act, a prayer has been made to bring on record the legal representatives of Shri Satwant Singh Kochhar, appellant No. 1, who is stated to have died during the pendency of this appeal on 18.10.2015. The details of the proposed legal representatives are given in para-2 of the application. The deceased is presently survived by appellants No. 3 and 4 and proposed legal representatives Sanjit Bindra and Intermeet Kaur. A prayer has thus been made to bring on record his legal representatives by condoning the delay in filing the appeal and setting aside the abatement.

Reply to the application stands filed, in which, *inter alia*, ground has been taken that there is inordinate delay of more than two years, which goes un-explained, in filing the application. According to the non-applicants, the applicants had knowledge of the pendency of this litigation, which is evident from the fact that in another litigation pending between the parties before the High Court of Delhi, steps were taken to bring on record the legal representatives of deceased appellant within the period of limitation. Learned Senior Counsel appearing for the non-applicants submits that by efflux of law, the appeal already stands abated, as no steps were taken to bring on record the legal representatives of deceased appellant within a period of limitation.

The averments made in the reply stand reverted by way of rejoinder by the applicants.

Learned Senior Counsel for the applicants has also drawn the attention of the Court to order, dated 21.07.2018, passed by the Court of learned Senior Civil Judge, Court No. 1, Shimla in Civil Suit No. 54 of 2003, titled as *Satwant Singh Kochhar Vs. Shri Jagmohan Singh and another* and submitted that in the Civil Suit, steps were taken to bring on record the legal representatives of deceased appellant herein and, therefore, it will be in the interest of justice in case this application is allowed, as prayed for and the proposed legal representatives are ordered to be brought on record. He further submitted that as the legal representatives of deceased appellant have already been brought on record in the Civil Suit, therefore, it enures for the benefit in appeal itself, as is settled law of the land, as is evident from the judgment passed by this Court in *Raj Mal and others Vs. Phulan Devi and others, Civil Revision No. 17 of 1981*, decided on 2nd June, 1982.

I have heard learned counsel for the parties and have also gone through the averments made in the application.

In view of the facts of this case, this Court is of the considered view that it will be in the interest of justice in case this application is allowed, as prayed for. It is not in dispute that out of the proposed legal representatives, two are already on record. Therefore, the appeal has not *stricto sensu* abated,

as the estate of the deceased, besides others, has also devolved upon the said appellants. Accordingly, in this view of the matter, as prayed for, this application is allowed by ordering the substitution of the legal representatives of deceased as appellants in his place and by ordering the deletion of the name of the deceased appellant from the memo of parties. As two of the legal representatives are already on record as appellants No. 3 and 4, this factum is taken on record and remaining legal representatives, namely, Ms. Sanjit Bindra and Ms. Intermeet Kaur Kochhar are ordered to be impleaded as appellants No. 1(a) and 1(b). Delay in filing the application is condoned and abatement is set aside. Application stands disposed of accordingly.

FAO No. 417 of 2006

Mr. Het Ram Thakur, learned counsel has put in appearance on behalf of the newly added appellants and on his instructions, Mr. K.D. Sood, learned Senior Advocate, has also put in appearance on their behalf. Amended Memo of Parties, if not already filed, be filed within four weeks. List for hearing in due course.

(Ajay Mohan Goel)
Judge

October 28, 2021
(bhupender)