

**22.02.2021**

**Present:** Mr. Rahul Mahajan, Advocate for the appellant/  
applicant.

Respondent No. 1 is stated to have died.

None for proposed legal representatives 1(a) to 1(c).

None for respondents No. 2 to 4.

**(Through Video Conference)**

**CMP(M) No. 196 and 197 of 2020**

By way of these applications, a prayer has been made to bring on record legal representatives of deceased-respondent No. 1, who is stated to have died during the pendency of this appeal on 12.02.2008 and also for *condonation* of delay in filing the application and setting aside the abatement, if any.

Despite service, proposed legal representatives have not put in service.

I have heard learned Counsel for the applicant and also perused the averments made in the application.

Learned Counsel for the applicant has stated that the factum of death of respondent No. 1 was not in the knowledge of the applicant and when he came to know about this fact, he tried to contact his Counsel who was earlier representing the appellant, but he was told that Pandit Om Prakash Sharma, who earlier was representing the applicant/appellant is no more. Thereafter, the appellant engaged the present Counsel and steps were taken to bring on record legal representatives of deceased/appellant.

Accordingly, a prayer has been made that as the appeal is pending in this Court since the year 2004, it will be in the interest of justice in case these applications are allowed by bringing on record legal representatives of deceased-respondent No. 1 and by condoning the delay in filing the application.

Having heard learned Counsel for the applicant/appellant, in my considered view, it will be in the interest of justice, in case, these applications are allowed as prayed for. It is not in dispute that the appeal is pending adjudication before this Court since the year 2004, when the same was admitted. In these circumstances, by taking hyper technical view that there is a considerable delay in filing the application to bring on record legal representatives of deceased-respondent, interest of justice will be frustrated. On the other hand, in case these applications are allowed and proposed legal representatives are ordered to be brought on record, then, no prejudice shall be caused to them, as they will get an opportunity to put forth their version on merit qua the appeal in issue.

Accordingly, these applications are allowed. Delay in filing the application under Order 22, Rule 4 of the CPC is condoned and abatement is also set aside. Proposed legal representatives of deceased-respondent No. 1, whose details are given in the application, are ordered to be substituted as legal representatives of deceased-respondent No. 1.

At this stage, learned Counsel for the applicant informs the Court that out of four proposed legal representatives, two, namely Shri Malook Raj and Shri Vijay Kumar are already on record as respondents No. 2 and 3. This fact is ordered to be taken on record. Other remaining legal representatives namely Smt. Bimla Devi and Nisha are ordered to be substituted as respondents No. 1(a) and 1(b). The applications stand disposed of accordingly.

**RSA No. 505 of 2004**

Notice to the newly added respondents as well as respondents No. 2 and 3, returnable for 22.04.2021. Steps for service be taken within two weeks.

List on 22.04.2021.

**(Ajay Mohan Goel)**  
**Judge**

February 22, 2021  
*(narender)*