



RSA No. 571 of 2006

24.5.2016

Present: Mr. B.C Verma, Advocate, for the appellant.

Mr. Umesh Kanwar, Advocate vice counsel, for respondents No. 1 to 4.

CMP(M) Nos. 716 and 717 of 2016

During pendency of the appeal before this Court, respondent No. 2 and respondent No.5 as apparent on a reading of their death certificates appended to the applications at hand, expired on 10.12.2014 and 28.9.2012 respectively. Since as palpable from the disclosures occurring in the applications at hand of on their demise their estates standing represented by their LRs detailed in paragraph 3 of both applications, the substitution of their respective LRs in their place in the apposite array of respondents is both just as well as expedient especially for a continuation of the lis. Since the applications for their substitution by their LRs stand instituted beyond limitation hence the learned counsel for the respondents/non-applicants contends of the appeal qua the respondents aforesaid begetting the sequel of its standing automatically abated. However in paragraph 4 of CMP (M) No. 716 of 2016, contents whereof stand supported by an affidavit of the



applicant/appellant remaining unaware of the demise of deceased respondent No.2 within three months of its occurrence rather his belatedly acquiring knowledge qua his demise on 30.4.2016, in quick promptitude thereto his instituting the application at hand renders the application to from the date of acquisition of knowledge by him of demise of deceased respondent No.2 to hence fall within limitation. The aforesaid reason is anchored upon averments constituted in paragraphs 2 and 4 of the application whose contents stand supported by an affidavit. Similarly in paragraph 4 of the CMP No. 717 of 2016 contents whereof stand supported by an affidavit of the applicants acquiring knowledge of the demise of deceased respondent No. 5 on 26.4.2016 in quick promptitude whereto his instituting the application at hand renders the application to from the date of acquisition of knowledge by him of demise of the deceased respondent No.5 to hence fall within limitation.

In sequel the delay in the filing of applications at hand is condoned. Since for a continuation of the lis substitution of deceased respondent No.2 and deceased respondent No.5 by their LRs is imperative. Consequently, LRs of deceased



2026:HHC:14302

respondent No. 2 reflected in paragraph 3 of the application are permitted to be brought on record in substitution of their predecessor-in-interest. LR Smt. Kubja Devi wife of late Shri Bhagat Ram reflected in paragraph 3 of the application is also ordered to be brought on record in substitution of her predecessor-in-interest. The remaining LRs mentioned in the aforesaid application are not required to be taken on record as they stand already impleaded as respondents No. 1 to 4. Amended memo of parties if not filed be filed within two weeks. Notice be issued to newly added LRs of deceased respondent No.2 on steps being taken within one week returnable within three weeks thereafter. The application stands disposed of accordingly.

(Sureshwar Thakur),
Judge.

May 24, 2016
(priti)