

7.08.2020 Present: Mr. Rupinder Singh Thakur, Advocate for the appellant, through video conferencing.

CMP.M No.112 of 2020

By way of instant application filed under Order 22 Rule 4 and 9 of the Code of Civil Procedure read with Section 5 of the Limitation Act, prayer has been made on behalf of the applicant/appellant for bringing on record the legal representatives of deceased sole respondent, Smt. Sukh Devi, who has expired on 25.4.2019, leaving behind her LRs, as detailed in para-2 of the application.

On 10.6.2020, this Court issued notice to the persons detailed in para-2 of the application, but despite service none has come present and as such, they are ordered to be proceeded against ex-parte in the instant application.

Having heard learned counsel representing the parties and perused the averments contained in the application as well as documents annexed therewith, this Court is convinced and satisfied that the delay in maintaining the application at hand is neither intentional nor willful, rather same has occurred on account of the circumstances, which were completely beyond the control of the applicant/appellant and as such, delay, if any, in filing

the application is condoned. Abatement, if any, is also set-aside.

Sole respondent Smt. Sukh Devi has expired on 25.4.2019 leaving behind her LRs, as is evident from Annexure P-1 annexed with the application. Since right to sue survives in favour of the LRs proposed to be substituted in place of deceased respondent, this Court sees no impediment in accepting the prayer made in the instant application.

Consequently, in view of the above, the present application is allowed and persons named in para-2 of the application are ordered to be substituted in place of deceased respondent. Registry is directed to carry out necessary correction in the memo of the parties on the basis of the amended memo of parties annexed with the application. The application stands disposed of.

RSA No.197 of 2019

Notice be issued to the newly added respondents, returnable within a period of four weeks, on taking steps within one week.

(Sandeep Sharma)
Judge

August 7, 2020
(shankar)