

Kalawati vs. Ramesh and others

CMP(M) No. 896 of 2019

01.05.2025 Present: Mr.V.S. Chauhan, Senior Advocate, alongwith
Mr.Arsh Chauhan, Advocate, for the
applicant-appellant.

Mr.Sudhir Thakur, Senior Advocate, alongwith
Mr.Somesh Sharma, Advocate, for non-
applicants/respondents No.1, 4, 7 and 8.

Respondents No.2, 9, 10 and 11 are ex parte
vide orders dated 03.08.2021 and
27.08.2021.

Respondent No.3 is stated to have expired.

Respondent No.4 is ex parte vide order dated
05.10.2023.

Appeal stands dismissed qua respondent
No.5 for non prosecution vide order dated
20.10.2023.

CMP(M) Nos.1696 and 1697 of 2022

These applications have been filed for substitution
of respondent No.3-Mohan Lal through his legal heirs
mentioned in para-2 of CMP(M) No.1696 of 2022. Proposed
respondents are duly served, but they have not chosen to
contest these applications.

These applications were filed in the year 2022.
Replies on behalf of contesting respondents have not been
filed. Alongwith CMP(M) No.1696 of 2022, copy of death
certificate of deceased Mohan Lal has been placed on record
indicating that he has expired on 21.10.2011.

It has further been stated that there is no other
legal heir of deceased respondent No.3 except the legal heirs
proposed to be brought on record by filing these applications.

In aforesaid facts and circumstances, for continuing with the appeal, subject to all just and legal exceptions, legal heirs of deceased Mohan Lal, mentioned in para2 of CMP(M) No.1696 of 2022, are permitted to be brought on record as respondents No.3(a) to 3(c) respectively, after condonation of delay and setting aside abatement, if any.

Applications are allowed and disposed of in aforesaid terms.

CMP No.5739 of 2019

This application has been filed, seeking leave to appeal on behalf of legal representative Kalawati daughter of deceased Geeta Devi. It has been stated that impugned judgment and decree was passed by District Judge on 31.05.2018 and in the said appeal Geeta Devi was appellant. However, she could not file appeal within time, rather before filing appeal she has expired on 05.02.2018. It has further been stated that Geeta Devi has three daughters and one son, but she has executed a Will in favour of her daughter Kalawati. Copy of Will has been placed on record as Annexure A-1 alongwith death certificate of Geeta Devi as Annexure A-2.

Without adjudicating the rights of legal heirs of Geeta Devi *inter se* them, subject to all just and legal exceptions, in aforesaid facts and circumstances, leave to appeal is granted to Kalawati to prefer appeal alongwith application under Section 5 of the Limitation Act for condonation of delay, but allowing this application does not mean that delay in filing the appeal has been condoned. The

said issue shall be decided in CMP(M) No.896 of 2019 independently.

Application is allowed and disposed of in aforesaid terms.

CMP(M) No.896 of 2019

Steps for service of newly added respondents No.3(a) to 3(c) and 6(a) to 6(c) be taken within two days. On taking such steps, notice, returnable on next date of hearing, be issued to the said respondents.

List on 18.06.2025 in terms of order dated 20.10.2023.

(Vivek Singh Thakur)
Judge

May 1, 2025
(Purohit)