

**RFA No.11 of 2016**

10.08.2020 Present: Mr. Ranvir Chauhan, Advocate, for the appellant, through video- conferencing.

Mr. Arvind Sharma, Additional Advocate General, for the respondent-State, through video- conferencing.

**CMP(M)'s No.317 and 318 of 2020**

By way of instant applications filed under Order 22 Rule 3 & 9 read with Section 151 of the Code of Civil Procedure and Section 5 of the Limitation Act, prayer has been made on behalf of the applicants/ appellants for bringing on record the legal representatives of deceased appellant namely, Sh.Beli Ram Tegta after condoning the delay in filing the application and setting aside the abatement, if any.

Despite repeated opportunities, no reply has been filed on behalf of the non-applicants/respondents and as such, this Court has no option, but to decide the same on the basis of the material available on record.

Having perused the averments contained in the application bearing CMP(M) No.318 of 2020, this Court finds that delay in maintaining the application under Order 22 Rule 3 & 9 CPC, is neither intentional

nor deliberate, 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.

Careful perusal of the averments contained in the application bearing CMP(M) No.317 of 2020, which is duly supported by an affidavit, suggests that appellant Beli Ram has expired on 27.9.2019, leaving behind his LRs, as detailed in para-2 of the application. Since right to sue survives in favour of the persons proposed to be substituted in place of deceased appellant, this Court sees no impediment in accepting the prayer made in the application.

Consequently, in view of the above, both the applications are allowed and persons named in para-2 of the application bearing CMP(M) No.317 of 2020 are ordered to be substituted in place of deceased appellant Beli Ram. Registry is directed to carry out necessary corrections in the memo of the parties on the basis of the amended memo of parties to be filed by learned counsel for the applicant/appellant within a period of 10 days. Since

Mr. Ranvir Chauhan, Advocate has authority to put in appearance on behalf of newly added appellants, there is no necessity to issue notices to them. The applications stand disposed of.

**(Sandeep Sharma)**  
**Judge**

August 10, 2020  
(shankar)