

Chaudhary Ram
vs.
Ranja Ram (deceased) through LRs & ors.

RSA No.158/2021

15.3.2023

Present: Mr. Mukesh Sharma, Advocate, for the appellant.

Mr. Malay Kaushal, Advocate, for respondents No.1 and 2 (a).

CMP (M) No.1644 and 1645/2022

As per the report of Registry, notices issued to legal representatives of respondent No.4 i.e. respondents No.4 (a) to 4 (d), received back duly served, however, none has appeared on their behalf, hence, they are proceeded against ex-parte.

The instant applications, under Order 22 Rules, 4, 9 and 11 read with section 151 of the Code of Civil Procedure and Section 5 of the Limitation Act, have been filed by the applicant for bringing on record the legal representatives of respondent No.4, Surender Pal and to condone the delay in filing the application.

As per the applicant, respondent No.4, Surender Pal, has expired on 12.8.2018 and left behind the legal representatives, as mentioned in para-2 of the application in CMP (M) No.1644/2022. However, the delay in filing the application is neither intentional nor willful, but was beyond the control of the applicant and in the interest of justice, deserves to be condoned. The applications are duly supported with the affidavits of the applicant as well as death certificate of the deceased.

No reply to the applications is intended to be filed and learned counsel for the non-applicant has no objection in case the applications are allowed.

Heard. Taking into consideration the fact that the delay, as occurred, was beyond the control of the applicant and has been sufficiently explained in the application (CMP (M) No.1645/2022), the same is condoned.

As cause to sue still persists in favour of the legal representatives of deceased respondent No.4, the application (CMP (M) No.1644/2022) is allowed and legal representatives of respondent No.4, as mentioned in para-2 of the application, are ordered to be brought on record, after setting aside the abatement, if any.

The applications stand disposed of.

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Amended memo of parties is taken on record.

Let fresh notices be issued to the newly added respondents No.4 (a) to 4 (d), returnable within six weeks, on taking steps within a period of one week. List thereafter.

CMP No.11250/2021

Learned counsel for the non-applicants prays for and is granted three weeks' time to file reply to the application. List thereafter.

**(Sushil Kukreja)
Judge**

15th March, 2023
(CS)