

IN THE HIGH COURT OF JHARKHAND AT RANCHI
S.A. No. 39 of 2005

Md. Fakruddin & Ors. Appellants
Versus
Md. Tahir Mian & Ors. Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Appellants : Mr. K.K. Ambastha, Advocate
For the Respondents : None

Order No.19 Dated- 22.08.2022

I.A. No.6615 of 2022

Heard the parties.

Learned counsel for the appellants submit that this interlocutory application has been filed with a prayer to substitute the legal representatives of the deceased respondent no.4 – Azmal Hussain, deceased respondent no.6 –Ram Ekbal Sao, deceased respondent no.7 –Ram Narayan Sao and deceased respondent no.10 –Hazi Afzal Hussain who died on 05.02.2017, 08.02.2016, 19.04.2021 & 10.01.2010 respectively during the pendency of the instant appeal. It is next submitted that the all the said four deceased respondents i.e. respondent nos. 4, 6, 7 & 10 have died leaving behind only six legal representatives each whose names, parentage and addresses have been mentioned in para-3 to 6 respectively of the instant interlocutory application.

It is next submitted by the learned counsel for the appellants that the appellants could not immediately know about the death of the said respondents resulting in delay in filing the petition for substitution. It is then submitted that the delay in filing the petition for substitution is neither deliberate nor intentional. It is next submitted that unless the delay is condoned and the abatement, if any, is set aside and the prayer to substitute the only six legal representatives each of the deceased respondent nos. 4, 6, 7 & 10 as respondent nos. 4(a) to 4(f), 6(a) to 6(f), 7(a) to 7(f) & 10(a) to 10(f) respectively is allowed, the appellants will be highly prejudiced.

Considering the facts and circumstances of the case, the delay in filing the petition for substitution of the only six legal representatives each of the deceased respondent nos. 4, 6, 7 & 10 as respondent nos. 4(a) to 4(f), 6(a) to 6(f), 7(a) to 7(f) & 10(a) to 10(f) respectively is condoned and the abatement, if any, is set aside and the prayer to substitute the only six legal representatives each of the deceased respondent no.4 – Azmal Hussain, deceased respondent no.6 –Ram Ekbal Sao, deceased respondent no.7 –Ram Narayan Sao and deceased respondent no.10 –Hazi Afzal Hussain as respondent nos. 4(a) to 4(f), 6(a) to 6(f), 7(a) to 7(f) & 10(a) to 10(f) respectively whose names, parentage and addresses have been mentioned in paragraph nos. 3 to 6 respectively of the instant interlocutory application is allowed.

Registry is directed to incorporate the names, parentage and addresses of the said only six legal representatives each of the deceased respondent no.4 – Azmal Hussain, deceased respondent no.6 –Ram Ekbal Sao, deceased respondent no.7 –Ram Narayan Sao and deceased respondent no.10 –Hazi Afzal Hussain as respondent nos. 4(a) to 4(f), 6(a) to 6(f), 7(a) to 7(f) & 10(a) to 10(f) respectively whose names, parentage and addresses have been mentioned in paragraph nos. 3 to 6 respectively in the cause title of the appeal memo with red ink and mention the word “Dead” against the name of the said deceased deceased respondent no.4 – Azmal Hussain, deceased respondent no.6 –Ram Ekbal Sao, deceased respondent no.7 –Ram Narayan Sao and deceased respondent no.10 –Hazi Afzal Hussain.

This interlocutory application is disposed of accordingly.

(Anil Kumar Choudhary, J.)

S.A. No.39 of 2005

Issue notice to the respondent nos. 4(a) to 4(f), 6(a) to 6(f), 7(a) to 7(f) & 10(a) to 10(f).

The appellants are directed to file requisites for service of notice on the respondent nos. 4(a) to 4(f), 6(a) to 6(f), 7(a) to 7(f) & 10(a) to 10(f) by registered post with A/D as well as under ordinary process within six

weeks, failing which, this appeal shall stand dismissed without further reference to the Bench.

Rule is made returnable within six weeks.

List this appeal after receipt of the service report of the notice issued to the respondent nos. 4(a) to 4(f), 6(a) to 6(f), 7(a) to 7(f) & 10(a) to 10(f).

Sonu-Gunjan/-

(Anil Kumar Choudhary, J.)