

IN THE HIGH COURT OF JHARKHAND AT RANCHI
S.A. No.584 of 2004

Jugan Kherwar & Others				Appellants
<i>Versus</i>				
Budhan Kherwar & Others				Respondents

CORAM : HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Appellants : Mr. Kundan Kr. Ambastha, Advocate
For the Respondents : Mr. Dharmendra Kr. Malityar, Advocate

Order No.08 Dated- 19/07/2022

I.A. No.11202 of 2019

Heard the parties.

2. Learned counsel for the appellants submits that this interlocutory application has been filed with a prayer for substituting the legal representatives of the deceased appellant No.1 namely Jugan Kherwar who died sometime in the year 2011 leaving behind his only three legal representatives whose names, parentage and addresses have been mentioned in para-3 of the instant interlocutory application. It is further submitted that the respondent No.1 namely Budhan Kherwar also died sometime in the year 2006 leaving behind his only two legal representatives whose names, parentage and addresses have been mentioned in para-4 of the instant interlocutory application and the respondent No.2 namely Sudhan Kherwar also died sometime in the year 2014 leaving behind his only three legal representatives whose names, parentage and addresses have been mentioned in para-5 of the instant interlocutory application and the petition has also been filed with a prayer for condoning the delay and to set aside the abatement, if any, in filing the petition for substitution.

3. It is next submitted that the appellant No.1 namely Jugan Kherwar was the main *Pairvikar* of the appellants who used to look after and make *pairvi* in the instant appeal, hence, the other appellants were unaware about the proceedings of the appeal, hence, they could not immediately take steps for substitution of the legal representatives of deceased appellant No.1 namely Jugan Kherwar, deceased respondent No.1 namely

Budhan Kherwar and deceased respondent No.2 namely Sudhan Kherwar hence, there was a delay in filing the petition for substitution. It is next submitted that unless the delay in filing the petition for substitution is condoned and abatement, if any, is set aside, the appellants will be highly prejudiced.

4. Considering the aforesaid facts, the delay in filing the petition for substitution is condoned, abatement, if any, is set aside and the prayer for substitution of the legal representatives of the deceased appellant No.1 namely Jugan Kherwar, deceased respondent No.1 namely Budhan Kherwar and deceased respondent No.2 namely Sudhan Kherwar, as prayed for, is allowed.

5. Registry is directed to incorporate the names, parentage and addresses of only three legal representatives of the appellant No.1 namely Jugan Kherwar whose names, parentage and addresses have been mentioned in para-3 of the instant interlocutory application as appellant Nos.1 (a) to 1 (c), incorporate the name, parentage and addresses of only two legal representatives of the respondent No.1 namely Budhan Kherwar whose names, parentage and addresses have been mentioned in para-4 of the instant interlocutory application as respondent Nos.1 (a) to 1 (b), incorporate the name, parentage and addresses of only two three legal representatives of the respondent No.2 namely Sudhan Kherwar whose names, parentage and addresses have been mentioned in para-5 of the instant interlocutory application as respondent Nos.2 (a) to 2 (c) and to mention the word 'Dead' against the names of appellant No.1 namely Jugan Kherwar, respondent No.1 namely Budhan Kherwar and respondent No.2 namely Sudhan Kherwar with red ink in the cause title of the appeal memo.

6. This interlocutory application stands disposed of.

(Anil Kumar Choudhary, J.)

S.A. No.584 of 2004

Mr. Kundan Kumar Ambastha- learned counsel undertakes to file power on behalf of appellant Nos.1 (a) to 1 (c).

Issue notice to the respondent Nos. 1 (a) to 1 (b) and 2 (a) to 2 (c).

The appellants are directed to file requisites for service of notice upon the respondent Nos. 1 (a) to 1 (b) and 2 (a) to 2 (c) by registered post with A/D as well as under ordinary process within six weeks failing which; this appeal shall stand dismissed against the said respondents 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 upon the said respondents.

Animesh/

(Anil Kumar Choudhary, J.)