

IN THE HIGH COURT OF JHARKHAND AT RANCHI
S.A. No.75 of 2003

Smt. Padda Devi

..... **Appellant**

Versus

Bahadur Mahto & Ors.

..... **Respondents**

CORAM: HON'BLE MR. JUSTICE AMITAV K. GUPTA

For the Appellant : Mr. L. K. Lal, Advocate

For the Respondents : Mr. Jitendra Tripathy, Advocate

14/Dated: 21st June, 2019

I.A. No.3788 of 2017

1. This interlocutory application has been filed under Order XXII Rule 4 & 9 of the Code of Civil Procedure read with Section 5 of the Limitation Act.

2. Learned counsel for the appellant has submitted that respondent No.1 namely, Bahadur Mahto, died sometime in the year 2010, leaving behind the legal heirs as mentioned in para - 2 of the application. It is submitted that the appellant is an old and rustic lady. She is ignorant of the procedural aspects of law and did not have the knowledge that in the event of death of a party substitution petition is required to be filed. That on 15.12.2017, she came and met the counsel in the High Court and enquired about the status of the case. That in course of discussion she disclosed that respondent No.01, had died long ago. Thereafter, the counsel advised her that legal heirs of the deceased respondent are required to be substituted. On instruction of the counsel, she filed the application before the *Mukhiya* of Lohapatti Gram Panchyat for supply of the death certificate of respondent No.01. The *Mukhiya* issued the death certificate. It is submitted that the appellant had fallen ill and after recovery from her illness she met her counsel, whereafter the present application has been filed.

It is submitted that the delay is not intentional or deliberate rather it occurred due to ignorance about the procedural aspect of law. It is prayed that abatement, if any, be set aside and the names of the legal heirs of deceased respondent No.01, as mentioned in para - 2 of the application, be substituted.

3. Learned counsel appearing on behalf of the respondents has not raised any serious objection.

4. Heard. In view of the reasons assigned in the supporting affidavit, delay is condoned, and abatement, if any, is set aside. Let the names of the legal heirs of deceased respondent No.01, as mentioned in para - 2 of the application, be substituted in place of respondent No.1

Learned counsel for the appellant shall carry out the necessary correction in the cause title of the memo of appeal, in red ink, in course of the day.

5. I.A. Nos.3788 of 2017 stands allowed.

S.A. No.75 of 2003

1. Learned counsel for the respondents submits that he shall take instruction and file the *vakalatnama* on behalf of the substituted legal heirs of deceased respondent No.01.

2. With the consent of learned counsels for the parties, office to list this case on **06.09.2019** under the appropriate heading.

(AMITAV K. GUPTA, J.)

Chandan/-