

IN THE HIGH COURT OF JHARKHAND AT RANCHI
S.A. No. No.256 of 2007

Bigal Tana Bhagat & Ors. Appellants

Versus

Most. Sukri Devi & Ors. Respondents

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

For the Appellants : Mr. Binod Kumar Dubey, Advocate
For the Respondents : Mr. Manohar Ram Tiwary, Advocate

05/Dated: 9th July, 2015
I.A. No.1123 of 2015

The instant Interlocutory Application being I.A. No.1123 of 2015 has been filed on behalf of the appellants under Order 22 Rule IV of the Code of Civil Procedure read with Section 5 of the Limitation Act.

2. Mr. Binod Kumar Dubey, learned counsel, for the appellants, has submitted that the appellant No.2, Barsa Tana Bhagat @ Birsa Tana Bhagat died on 13.05.2014, during the pendency of the appeal, leaving behind the legal heirs and representatives namely, his widow and three sons, as mentioned at para - 2 of the supporting affidavit. It is further submitted that there is no willful delay or laches on the part of the appellants rather they were prevented from filing the application earlier as they did not have knowledge about the death of appellant No.2, hence, prays that delay in filing the substitution petition may be condoned, legal heirs and representatives of the deceased appellant No.2 may be substituted and abatement, if any, may also be set aside.

3. Learned counsel for the respondents has not raised any serious objection.

4. Considering the reasons assigned in the supporting affidavit, there is reasonable and sufficient explanation given for condoning the delay in preferring the substitution petition accordingly, the delay is hereby condoned.

5. Let the legal heirs/ representatives, as mentioned at para - 2 of the substitution petition, be substituted, in place of deceased appellant No.02, and abatement, if any, is set aside.

6. Learned counsel for the appellants shall carry out necessary correction in the memo of appeal in red ink.
7. Learned counsel for the appellants shall file *vakalatnama* on behalf of the newly substituted legal heirs and representatives of deceased appellant No.2.
8. Accordingly, I.A. No.1123 of 2015 stands allowed.

S.A. No.256 of 2007

Office is directed to put up this case under the appropriate heading.

(AMITAV K. GUPTA, J.)

Chandan/-