

IN THE HIGH COURT OF JHARKHAND AT RANCHI

S.A. No. 55 of 2003

Smt. Swatantri Devi	...	...	Appellant
Kanti Devi and Ors.	...	...	Respondents

CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Appellant : Mr. Kushal Kumar, Advocate
For the Respondents : Mr. Amaresh Kumar, Advocate

26/21.01.2026

I.A. No.5060 of 2024 has been filed for substitution of the sole appellant and I.A. No.8416 of 2024 has been filed for condonation of delay in filing the substitution of the appellant and a prayer has also been made for setting aside abetment.

2. I.A. No.5045 of 2025 has been filed for substitution of respondent nos.1 and 5.

3. The learned counsel for the respondents has opposed the prayer and submitted that I.A. for substitution of respondent no.1 cannot be filed unless substitution of the sole appellant is done.

4. He has further submitted that this Second appeal stood dismissed for default and was restored in CMP No.302 of 2018 vide order dated 15.03.2024 and the sole appellant, who was the petitioner in CMP had expired on 08.11.2018 and respondent no.1 in the CMP had also expired on 05.07.2020.

5. He submits that the order of restoration of the second appeal passed in CMP is a nullity in the eyes of law in as much as the petitioner and also respondent no.1 had expired during the pendency of the CMP.

6. He has also submitted that in the CMP, one petition was filed indicating that the sole petitioner has expired and the petition for condonation of delay was also filed, but the same was dismissed as not pressed.

7. The learned counsel submits that ultimately the appellant of the present case, who was the petitioner in the CMP was not substituted.

8. He submits that the order of restoration being a nullity, the second appeal does not survive anymore, and therefore, the petition seeking substitution of the appellant, which has been filed in the present case, is also fit to be dismissed along with the Second appeal.

9. The learned counsel for the appellant submits that he shall advance his arguments tomorrow.

10. Post this case tomorrow i.e. on 22.01.2026 to be taken up at 1 p.m.

(Anubha Rawat Choudhary, J.)

21.01.2026

Saurav/