

IN THE HIGH COURT OF JHARKHAND AT RANCHI
S.A. No.324 of 2002

Bhuneshwar Sonar & Others Appellants
Versus
Gokul Sao Respondent

CORAM : HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Appellants : Mr. Onkar Nath Tiwary, Advocate

Order No.22 Dated- 29/08/2022

I.A. No.4277 of 2022

Heard the learned counsel for the appellants.

2. Learned counsel for the appellants submits that this interlocutory application has been filed with a prayer to substitute the legal representatives of the deceased appellant Nos.1 and 2. It is next submitted that the appellant No.1- Bhuneshwar Sonar died on 25.02.2010 and the appellant No.2- Smt. Parwati Devi died on 03.02.2015 and both the appellant Nos.1 and 2 are husband-wife by relationship and they died leaving behind their only six common legal representatives whose names, parentages and addresses have been mentioned in para-7 of the instant interlocutory application. It is next submitted that out of the six common legal representatives of the deceased appellant Nos.1 and 2, the first three legal representatives are already parties to this appeal being appellant Nos.3, 4 and 5 respectively. Hence, it is submitted that the rest three common legal representatives of the deceased appellant Nos.1 and 2 mentioned at serial No.4, 5 and 6 in paragraph 7 of this interlocutory application, be substituted as legal representatives of deceased appellant No.1 as appellant No.1 (a) to 1 (c). It is next submitted that this appeal was earlier conducted by the appellant No.1 and thereafter the appellant No.2 and rest of the appellants were unaware about the present status of the appeal. Hence, they could not take immediate steps for substitution of the legal representatives of the deceased appellant No.1 and 2 within time. It is further submitted that the delay caused in filing the petition for substitution is neither deliberate nor intentional. It is next submitted that unless the delay in filing the petition for substitution is condoned and

abatement, if any, is set aside and the only three common legal representatives of the deceased appellant Nos.1 and 2 are substituted in their place as Appellant No.1 (a) to 1 (c), the appellants will be highly prejudiced.

3. Considering the aforesaid facts, the delay in filing the substitution petition is condoned, the abatement, if any, is set aside and the prayers for substitution of the only three common legal representatives of the deceased appellant Nos.1 and 2 in their place as Appellant No.1 (a) to 1 (c), is allowed.

4. Registry is directed to incorporate the name of only three common legal representatives of the deceased appellant Nos.1 and 2 in their place whose names, parentage and addresses have been mentioned in para-7 (serial No. IV to VI) of the instant interlocutory application as appellant No.1 (a) to 1 (c) and to mention the word 'Dead' against the names of the deceased appellant Nos.1 and 2 namely Bhuneshwar Sonar and Smt. Parwati Devi respectively with red ink in the cause title of the appeal memo.

5. This interlocutory application stands disposed of accordingly.

(Anil Kumar Choudhary, J.)

S.A. No.324 of 2002

Mr. Onkar Nath Tiwary- learned counsel prays for time for hearing of the appeal and undertakes to file power on behalf of the appellant No. 1 (a) to 1 (c).

Prayer for time is allowed as the last chance.

List this appeal after four weeks.