

IN THE HIGH COURT OF JHARKHAND AT RANCHI
F.A. No. 55 of 2011

Bishun Prasad @ Bishun Ram

..... **Appellant**

Versus

Shashidhar Agarwal & Ors.

..... **Respondents**

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellant : Mr. V. Shivnath, Sr. Adv.

For the Respondents : Mr. Baban Prasad, Adv.

11/Dated 24th October, 2019

I.A. No. 6968 of 2019

This Interlocutory Application being I.A. No. 6968 of 2019 has been filed for substituting the legal heir(s)/successor(s) of respondent Nos. 4 and 8(d).

Mr. V. Shivnath, learned Senior counsel for the appellant submits that he came to know from the appellant about the death of the respondent nos. 4 and 8(d). He further submits that there is delay of 626 days with regard to deceased respondent No.8(d) in filing this interlocutory application. He further submits that the name of legal heir(s)/successor(s) of the respondent No. 8(d) is provided in paragraph 3 of the said interlocutory application. He further submits that the legal heirs/successors of deceased respondent No.8(d) are already on the record and in view of the matter the name of Sanjeev Ranjan may kindly be allowed to be deleted.

He further submits that respondent no.4 has also died during pendency of this appeal. The name of legal heir(s)/successor(s) has been provided in paragraph no.5 of the said interlocutory application. He further submits that in that view of the matter, the name of respondent no.4 may kindly be allowed to be deleted.

Mr. Baban Prasad, learned counsel appearing for the respondents has vehemently opposed the prayer and submits that this interlocutory application is barred by so many days and that's why this interlocutory application is fit to be rejected.

He further argues that so far as the limitation is concerned, the separate interlocutory application has not been filed and in that view of the matter this interlocutory application is not fit to be allowed.

In view of the above facts and submissions of learned counsel appearing for the parties, this Court finds that so far as the respondent No. 8 (d) is concerned, their legal heir(s)/successor(s) are already on the record and there is no impediment in issuing the direction to delete the name of respondent No.8(d), as their legal heir(s)/successor(s) are already on the record.

So far as the legal heir(s)/successor(s) of respondent No.4 is concerned, the name of legal heir(s)/successor(s) are provided in paragraph No.5 and the sufficient cause has been made out in the interlocutory application for condoning delay.

In the above view of the matter the delay in filing this interlocutory application is, hereby, condoned.

Learned counsel for the appellant is directed to delete the name of the deceased respondent No.8 (d) will make out necessary correction in course of the day with regard to respondent no.4, subject to payment of a cost of Rs.5,000/- (Five Thousand) which will be paid to the learned counsel for the respondent within one week after Diwali holidays.

At this stage, Mr. Baban Prasad, learned counsel waives notice with regard to the substituted legal heir(s)/successor(s) of respondent no.4.

Thus, there is no need of issuance of notice upon the newly added legal heir(s)/successor(s) of respondent No.4.

Accordingly, this Interlocutory Application stands allowed and disposed of.

(Sanjay Kumar Dwivedi, J.)

Raja /Pappu