

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**F.A.No.23 of 2015**

Hari Prasad Agrawal, S/o late Raghunandan Pd. Agrawal  
R/o Village Japla dharhara, P.O. Japla, P.S. Hussainabad  
Distt. Palamau .... Appellant

**Versus**

Sanjay Chaudhary & Ors. .... Respondents

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

For the Appellant : Mr. Rahul Gupta, Advocate  
For the Respondents : Mr. Vibhash, Arbind Kr. Sinha, Adv.

**15/Dated: 12.02.2016**  
**I.A.No.3573/15 & I.A.No.677/16**

Learned counsel for the petitioner seeks permission for making correction in I.A. No.677 of 2016, as it has inadvertently been mentioned under Order 22 Rule 10 instead of Rule 9.

Permission accorded.

Learned counsel for the appellant shall carry out necessary correction in course of the day.

The above Interlocutory Applications have been filed under Order 22 Rule 4 and under Order 22 Rule 9 read with Section 5 of the Limitation Act, respectively.

Learned counsel for the appellant has submitted that he got the knowledge regarding the death of respondent no.7, namely, Lalan Singh, after the rejoinder was filed by appearing respondents, to the interlocutory application filed by the appellant wherein information regarding the death of respondent no.7 on 7.03.2013 was given. It is submitted that the legal heirs/ representatives of deceased respondent no.8, Baij Nath Singh, were substituted in the trial court, however due to typographical error in the decree the name of deceased respondent no.8 i.e late Baij Nath Singh was mentioned. Learned counsel for the appellant has submitted that in terms of Rule 96 of the High Court of Jharkhand Rules, 2001, the legal heirs/ representatives can be brought on record even when an appeal has been preferred, if the said defendant-respondent had died prior to filing of appeal. That there has been no deliberate or intentional laches on the part of the appellant rather the delay occurred as he was not aware about the death of respondent no.7, as no information under Order 22 Rule 10A was provided by the defendants-respondents in the court below.

On the above grounds, it has been submitted that the delay may be condoned and abatement if any be set aside.

Learned counsel appearing on behalf of the respondent nos. 3, 4, 5, 6, 9,10,11, 12,13, 14, 15, 16, 17,18,19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 33, 34, 35 have vehemently opposed the same.

In view of the reason assigned in the supporting affidavit sufficient cause and reasonable explanation is given, accordingly, the delay is, hereby, condoned. Let the name of legal heirs/representatives of deceased respondent nos. 7 & 8 as mentioned in para 5 and 7 of I.A. No.3573 of 2015, be substituted in place of deceased respondents nos. 7 & 8, accordingly, abatement, if any, is hereby set aside. Learned counsel for the appellant shall carry out the necessary corrections in the cause title in red ink.

I.A.No.3573/15 and I.A.No.677/16 stand allowed.

**I.A.No.95 of 2016**

This Interlocutory Application has been filed under Order 39 Rules 1 & 2 read with Section 151 of the C.P.C for temporary injunction.

Learned counsel appearing for the respondents submits that they shall file reply to the same and seeks time.

**F.A.No.23 of 2015**

Learned counsel for the appellant shall file requisites of notice to be served upon substituted legal heirs/representatives of respondent nos. 7 & 8 under registered cover with A/D as well as by ordinary process within two weeks.

Learned counsel for the appellant shall also take steps for service of notice upon the none appearing respondents through ordinary process as well as by substituted service of notice or personal service.

Put up this case on 3<sup>rd</sup> March, 2016.

Till then, both the parties shall maintain status-quo.

The respondents are at liberty to file appropriate application challenging the status-quo.

**(AMITAV K. GUPTA, J.)**

fahim/-