

IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. No. 23 of 2015

Hari Prasad Agrawal

... **Appellant**

-versus-

Sanjay Chaudhary & Others

... **Respondents**

CORAM : HON'BLE MR. JUSTICE ANANDA SEN

For the Appellant : Mr. A.K. Sahani, Advocate

For the Respondents : Mr. Arbind Kumar Sinha, Advocate

24/ 27.06.2019 I.A. No. 234 of 2019 & I.A. No.3836 of 2019

The sole appellant expired on 28.09.2018, leaving behind his two daughters, namely, Anju Agrawal and Manju Agrawal and three sons, namely, Kanhaiya Prasad Agrawal, Ganesh Prasad Agrawal and Kamlesh Kumar Jindal. Death certificate has been annexed alongwith I.A. No.234 of 2019.

Counsel for the applicants submits that right to sue survives and devolves upon the legal heirs of the sole appellant, for which this substitution application (I.A. No.234 of 2019) has been filed. There is a delay of 7 (seven) days in filing the substitution application for which I.A. No.3836 of 2019 has been filed under Section 5 of the Limitation Act, praying therein to condone the delay.

Counsel for the applicants submits that for the interest of justice it is necessary to substitute the sole appellant by his legal heirs, whose names have been mentioned in paragraph 3 of the substitution application (I.A. No.234 of 2019).

Respondents have not opposes the prayer for substitution.

Considering the submissions of the parties and considering the fact that cause of action survives and devolves upon the legal heirs and it is necessary for the interest of justice to substitute the legal heirs of the deceased appellant No.1, I am inclined to allow these two interlocutory applications. The delay of 7 (seven) days in filing the substitution application is condoned and the substitution as prayed for is allowed.

Counsel for the applicants to carry out the necessary correction in the cause title of the memo of appeal in red ink.

I.A. No.234 of 2019 and I.A. No.3836 of 2019, thus, stand allowed.

(Ananda Sen, J.)