

IN THE HIGH COURT OF JHARKHAND AT RANCHI
I.A. No.4489 of 2016
With
I.A. No.4490 of 2016
With
I.A. No.4491 of 2016
In
F.A No. No.27 of 2014

1. The State of Jharkhand through the Deputy Commissioner, Palamau at Daltonganj, P.O. & P.S. Daltonganj, District Palamau
 2. The District Land Acquisition Officer, Palamau, P.O. & P.S. Daltonganj, District Palamau
 3. The Chief Engineer, Water Resource Department, P.O. & P.S. Daltonganj, District Palamau
- Appellants**

Versus

1. Rajmani Tiwari, S/o Ramdas Tiwari
 2. Krishna Tiwari, S/o Ramdas Tiwari
 3. Judhithir Tiwari, S/o Ramdas Tiwari
 4. Kisto Tiwari, S/o Ramdas Tiwari
 5. Duryodhan Tiwari, S/o Ramdas Tiwari, All Residents of Village Redma, P.O. & P.S. Daltonganj, District - Palamau
- Respondents**

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

For the Appellants : Mr. Vineet Prakash, Advocate
For the Respondents : Mr. Arbind Kr. Sinha, Advocate & Mr. Jitesh Kumar, Advocate

04/Dated: 28th July, 2016

The above interlocutory applications have been filed under Order - XXII, Rule - 4 of the Code of Civil Procedure, under Section 5 of the Limitation Act and under Order - XXII Rule - 9 of the Code of Civil Procedure.

2. It is submitted by the learned counsel for the appellants that he came to know about the death of respondent No.04 namely, Kisto Tiwari on the information supplied by the legal heirs/ representatives that respondent No.04 had died on 17.08.2015 as per the information given in I.A. No.131 of 2016. That there has been no deliberate or intentional laches on the part of the appellants rather the delay occurred since he had no knowledge regarding the death of respondent No.04.

It is prayed that delay in filing the substitution petition be condoned, abatement, if any, be set aside and the legal heirs/ representatives of deceased respondent No.04, as mentioned in para - 2 of the I.A. No.4489 of 2016, be brought on record.

3. Learned counsel for the respondents has submitted that despite filing the application under Order – XXII, Rule 10A of the Code of Civil Procedure, the appellants did not take steps immediately which shows lack of bonafide.

4. Heard. Being satisfied with the reasons assigned in the supporting affidavits, the delay in filing the substitution petition is condoned, abatement, if any is set aside. Let the legal heirs/ representatives of deceased respondent No.04, as mentioned in para – 2 of I.A. No.4489 of 2016, be brought on record.

5. Learned counsel for the appellants shall carry out the necessary correction in the cause title of the appeal, in red ink, in course of day.

6. Accordingly, I.A. Nos.4489 of 2016, 4490 of 2016 and 4491 of 2016 stand disposed of.

I.A. No.4958 of 2016

7. The above interlocutory application has been filed under Order 41 Rule 5 of the Code of Civil Procedure.

8. If the appellant-State deposits 70% of the decretal amount in the court below, the further proceedings of Execution Case No.22/13, pending in the court of learned Senior Civil Judge No.1, Daltonganj, shall remain stayed.

9. The amount so deposited by the appellant-State shall be disbursed to the respondents on their giving an undertaking and security in terms of order dated 05th May, 2015.

10. Accordingly, I.A. No.4958 of 2016 stands disposed of.

F.A. No.27 of 2014

11. Learned counsel for the appellants shall file requisites of notice to be served upon the legal heirs/ representatives of deceased respondent No.04, under ordinary process, for which, two weeks' time is allowed.

12. Learned counsel for the appellants shall also file a proper application, within a week, for bringing on record the legal heirs/ representatives of deceased respondent no.02.

(AMITAV K. GUPTA, J.)