

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Second Appeal No.640 of 2015

Shatrughan Hazra & Ors.	...	Appellants
	Versus	
Bhagirath Hazra & Ors.	...	Respondents

Coram: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellants	: Mrs. Jasvindar Mazumdar, Adv.
For the Respondents	: Mr. A.K. Sahani, Adv.

Order No.17/Dated- 03.07.2025

I.A. No.6706 of 2025

This interlocutory application has been preferred by the appellants for condoning the delay of 245 days in filing the substitution application with respect to respondent No.1, for condoning the delay of 171 days in filing the substitution application with respect to respondent No.4, for condoning the delay of 1175 days in filing the substitution application with respect to respondent No.5 and for condoning the delay of 445 days in filing the substitution application with respect to respondent No.6.

The reason assigned in para No.4 of the interlocutory application that due to lack of knowledge of death of the respondents, appellants could not file the substitution application.

The counter affidavit filed by learned counsel for the respondent No.12 wherein it has been mentioned at para No.8 that no date has been mentioned about the death of the respondents, although most of the respondents have died 2-3 years ago and one respondent No.5 died in the year 2020. The reason pleaded by the appellants for condonation of delays, is not sufficient and there is deliberate delay in filing the substitution application. There is no prayer for setting aside the automatic abatement.

Considering the aforesaid rival contentions of the parties and the reason assigned for the delays, I found that there is sufficient cause explained and accordingly, the delays are

condoned and I.A. No.6706 of 2025 is **allowed** subject to payment of cost of Rs.5000/- and automatic abatement is also set aside.

I.A. No.3288 of 2024

Learned counsel for the appellants has submitted that this instant interlocutory application has been filed for substitution of legal heirs/representatives of deceased respondent Nos.1, 4, 5, and 6 who died during pendency of this appeal and for deletion of the names of deceased respondent Nos.21 and 22, who have been repeatedly impleaded.

The names of legal heirs/representatives of respondent Nos.1, 4, 5 and 6 have been mentioned in para Nos.2, 3, 4 of the instant interlocutory application and also in supplementary affidavit at para Nos.5, 6, 7 and 8. The legal heirs of deceased respondent Nos.1, 4, 5, and 6 are permitted to be substituted.

Learned counsel for the appellants is directed to incorporate the names of legal heirs/representatives of deceased respondents in cause title during course of the day.

Office is directed to delete the names of respondent Nos.21 and 22 from the cause title of this second appeal.

I.A. No. 3288 of 2024 is **allowed**.

Second Appeal No.640 of 2015

Let notices be issued upon the legal heirs/representatives of the deceased respondent Nos.1, 4, 5 and 6 under registered cover with A/D as well as under ordinary process, for which requisites etc. must be filed within a period of two weeks by the appellants.

List this case after receipt of service report of notice.

(Pradeep Kumar Srivastava, J.)