

IN THE HIGH COURT OF JHARKHAND AT RANCHI
S.A. No.191 of 2013

Kamakhya Narayan Singh Appellant

Versus

Ram Sahay Singh & Others Respondents

With

S.A. No.259 of 2015

Kamakhya Narayan Singh Appellant

Versus

Ram Sahay Singh & Others Respondents

CORAM : HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Appellants : Mr. Arpit Kumar, Advocate

For the Respondents : Mr. Jai S. Tripathi, Advocate
(In S.A. No.259/2015)

Order No:-06 Dated:-11-07-2024

I.A. No.3324 of 2023 with I.A. No.3325 of 2023 with I.A.
No.3326 of 2023 in S.A. No.191 of 2013

Heard the parties.

Learned counsel for the appellants submits that I.A. No.3324 of 2023 has been filed with a prayer to substitute the legal representatives of the deceased respondent No.1 namely Ram Sahay Singh who died on 14.09.2019 leaving behind his only three legal representatives whose names, parentages and addresses have been mentioned in para-1 of the I.A. No.3324 of 2023. It is next submitted that in the said I.A. No.3324 of 2023, prayer has also been made to delete the name of respondent No.3 namely Jagdish Singh from the array of the parties as the legal heirs of the respondent No.3 are already parties to this appeal being respondent Nos.4 and 5 of this appeal. It is next submitted that I.A. No.3325 of 2023 has been filed with the prayer to set aside the abatement, if any, in filing the petition for substitution and I.A. No.3326 of 2023 has been filed with a prayer to condone the delay in filing the petition for substitution. It is next submitted that the appellant, due to medical issues and COVID-19 pandemic as well as his old age, was not able to contact the counsel, hence, the same resulted in delay in filing the petition for substitution. It is next submitted that unless the delay in filing the petition for substitution is condoned and

abatement, if any, is set aside, and the name of the respondent No.3 is deleted from the cause-title of the appeal memo, the appellants will be highly prejudiced.

Considering the aforesaid facts, the delay in filing the petition for substitution is condoned, abatement of this appeal in respect of respondent No.1, is set aside, prayer to delete the name of respondent No.3 namely Jagdish Singh is allowed and the prayer for substitution of only three legal representative of the deceased respondent No.1 namely Ram Sahay Singh, as prayed for, is allowed.

Registry is directed to incorporate the name of only three legal representatives of the deceased respondent No.1 namely Ram Sahay Singh whose names, parentages and addresses have been mentioned in para-1 of the I.A. No.3324 of 2023 as respondent No.1 (a) to 1 (c) and to mention the word 'Dead' against the names of respondent No.1 namely Ram Sahay Singh and respondent No.3 namely Jagdish Singh with red ink in the cause title of the appeal memo.

These interlocutory applications stand disposed of.

(Anil Kumar Choudhary, J.)

S.A. No.191 of 2013

Learned counsel for the appellant prays for time to advance arguments in the matter of Admission.

Prayer for time is allowed as the last chance.

List this appeal after four weeks under the heading 'Hearing' under Order XLI Rule 11 of the Code of Civil Procedure.

(Anil Kumar Choudhary, J.)

I.A. No.3330 of 2023 with I.A. No.3327 of 2023 with I.A. No.3328 of 2023 in S.A. No.259 of 2015

Heard the parties.

Learned counsel for the appellants submits that I.A. No.3330 of 2023 has been filed with a prayer to substitute the legal representatives of the deceased respondent No.1 namely Ram Sahay Singh who died on 14.09.2019 leaving

behind his only three legal representatives whose names, parentages and addresses have been mentioned in para-1 of the I.A. No.3330 of 2023. It is next submitted that in the said I.A. No.3330 of 2023, prayer has also been made to delete the name of respondent No.3 namely Jagdish Singh from the array of the parties as the legal heirs of the respondent No.3 are already parties to this appeal being respondent Nos.4 and 5 of this appeal. It is next submitted that I.A. No.3327 of 2023 has been filed with the prayer to set aside the abatement, if any, in filing the petition for substitution and I.A. No.3328 of 2023 has been filed with a prayer to condone the delay in filing the petition for substitution. It is next submitted that the appellant, due to medical issues and COVID-19 pandemic as well as his old age, was not able to contact the counsel, hence, the same resulted in delay in filing the petition for substitution. It is next submitted that unless the delay in filing the petition for substitution is condoned and abatement, if any, is set aside, and the name of the respondent No.3 is deleted from the cause-title of the appeal memo, the appellants will be highly prejudiced.

Considering the aforesaid facts, the delay in filing the petition for substitution is condoned, abatement of this appeal in respect of respondent No.1, is set aside, prayer to delete the name of respondent No.3 namely Jagdish Singh is allowed and the prayer for substitution of only three legal representative of the deceased respondent No.1 namely Ram Sahay Singh, as prayed for, is allowed.

Registry is directed to incorporate the names, parentage and addresses of only three legal representatives of the deceased respondent No.1 namely Ram Sahay Singh whose names, parentages and addresses have been mentioned in para-1 of the I.A. No.3330 of 2023 as respondent No.1 (a) to 1 (c) and to mention the word 'Dead' against the names of respondent No.1 namely Ram Sahay Singh and respondent No.3 namely Jagdish Singh with red ink in the cause title of the appeal memo.

These interlocutory applications stand disposed of.

(Anil Kumar Choudhary, J.)

S.A. No.259 of 2015

Issue notice to the respondent No. 1(a) to 1 (c) in the matter of limitation.

The appellant is directed to file requisites for service of notice upon the respondent No. 1(a) to 1 (c) in the matter of limitation by registered post with A/D as well as under process of the court within two weeks failing which; this appeal shall stand dismissed without further reference to the Bench.

Rule is made returnable within six weeks.

In case the requisites are filed, list this appeal after receipt of the service report of the notice issued to the said respondent.

Animesh/

(Anil Kumar Choudhary, J.)