

IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. (Filing) No. 7842 of 2024

Husan Bano and Ors.	...	...	Appellants
	Versus		
Abdul Bari and Ors.	...	...	Respondents

CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Appellants : Mr. Sudhir Kumar Sharma, Advocate
For the Respondents :

07/04.04.2025

The learned counsel for the appellants has submitted that two interlocutory applications are placed on board, one is I.A. No.10289 of 2024 and other is I.A. No.401 of 2025. He submits that both the interlocutory applications are in connection with defect no.22(3). He has also submitted that the deceased namely Most. Hamida Khatoon, defendant no.2 of the decree under appeal, never filed any written statement nor contested the suit, and therefore, in terms of Order XXII Rule 4 (4), of Code of Civil Procedure, her legal heirs need not be arrayed as party and still the court can proceed. To this effect, I.A. No.401 of 2025 has been filed for deletion of their name in memo of appeal.

2. However, he has submitted that the matter is arising out of partition suit, therefore, it would be proper, if the notices are also issued to the legal heirs and for that I.A. No.10289 of 2024 has been filed for ignoring the defect.

3. He submits that the defect pointed out by the office be ignored, the appeal be admitted and notices be issued subject to any objection that may be raised by the legal heirs or other respondents. He has also submitted that except the aforesaid defect no.22 (3), there is no other defects.

4. Considering the aforesaid submission, the defect no.22(3) as pointed by the office is ignored for the present subject to any objection/response that may be raised by the legal heirs of the deceased defendant no.2 or by the other respondents.

5. Let this appeal be admitted.

6. Let notices be issued to all the respondents by ordinary process, for which, requisites be filed by 02.05.2025. The legal heirs of the original defendant no.2 have already been arrayed as party respondents in the present proceeding which are respondent nos.35 to 39 as stated by the learned counsel for the appellants and the records have already been received.
7. Appropriate order will be passed on the interlocutory applications upon appearance of the parties.
8. The notice should accompany a copy of both the interlocutory applications.
9. Office is directed to put appropriate registration number in this case.
10. Post this case on 14.07.2025 awaiting service report along with interlocutory applications under appropriate heading .

(Anubha Rawat Choudhary, J.)

Saurav/