



IN THE HIGH COURT OF ORISSA AT CUTTACK

RSA No. 208 of 2015

***Gopalji Mahaprabhu@Gopalji
Jew***

....

Appellant

Represented by

Mr. N.K. Sahu, Advocate

-Versus -

Gokula Mahakur and Others

....

Respondents

Mr. S. Mahapara, Advocate

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

07.11.2024

I.A. No. 1256 of 2024

Order No.

8.

1. This matter is taken up through hybrid mode.
2. This is an application for condonation of delay in filing of the substitution petition as respondent No.2 has died on 07.01.2024. There is a delay of four months and twenty five days.
3. It is stated that the deceased respondent No.2 was residing at a different district than the other respondents, for which the appellant was not aware of his death. It is only when the matter was listed before this Court, the counsel appearing for the respondents informed about such fact. Since the cause of action survives against the legal heirs of the deceased respondent, he needs to be substituted.
4. Considering the submissions as above, the delay is condoned.
6. The I.A. is disposed of.

(Sashikanta Mishra)
Judge



I.A. Nos. 1255 and 1254 of 2024

Order No.
9.

1. These are application for setting aside the order of abatement of the appeal in respect of the respondent No.2, who died on 07.01.2014 and for substitution of his legal heirs.
2. Since the delay in filing of the application has been condoned and it is stated that the right to sue survives against the LR's. of respondent No.2, I am inclined to take a lenient view. The applications are allowed. The order of abatement of the appeal is set aside. The application for substitution is allowed.
3. The LR's of the deceased respondent No.2 as indicated in the schedule be substituted in his place as respondent Nos. 2(a) to 2(d).
4. Consolidated cause title be filed.
5. The IAs are disposed of.

(Sashikanta Mishra)
Judge

RSA No. 208 of 2015

Order No.
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1. It appears that the appeal was admitted vide order dated 20.05.2016. However, the substantial questions of law were not specifically framed. The substantial questions of law are framed hereunder:-

“i. Whether the power prescribed under Sections 120 and 121 of the CP Land Revenue Act and a bona fide action of the Deputy Commissioner in correcting/reversing the HS ROR as under Ext.2 recording Rayati status of the deity can be called in question by the lower Appellate Court in view of specific bar created under Section 152 of Central Provinces Land Revenue Act 1881?”



ii. Whether learned Lower Appellate Court was required to give its own finding while reversing the finding of the Trial Court in respect of Issue No. 7 regarding title of the Defendant on the basis of a Civil Court Decree which admittedly did not correlate with the present Suit Schedule Land?"

2. Issue notice to the substituted respondents by registered post with A.D. making it returnable within four weeks. Requisites be filed within a week.
3. List this matter in the week commencing 9th December, 2024.

(Sashikanta Mishra)
Judge

B.C. Tudu