

HIGH COURT OF JUDICATURE FOR RAJASTHAN
JODHPUR

S.B. Civil First Appeal No. 365/2020

Lrs of Luta Ram & Ors.

-----Appellants

Versus

Champa Devi & Anr.

-----Respondents

For Appellant(s)	:	Mr. Bheru Lal Jat
For Respondent(s)	:	Mr. Akshay Surana Mr. Tarun Dudia

HON'BLE MR. JUSTICE BIRENDRA KUMAR

Order

11/02/2025

Learned counsel for the appellants submits that all the defects have already been removed.

This appeal is barred by limitation of 69 days.

Reasonable explanation is there in the application filed under Section 5 of the Limitation Act.

Hence, for substantial justice, the delay is condoned and the application filed under Section 5 of the Limitation Act is allowed.

IA No.1/2025 is an application of the appellants to substitute legal heirs of deceased appellant No.1/6-Jagdish, who died on 14.04.2022 and also to substitute legal heirs of deceased appellant No.3-Jairam, who died on 25.06.2021.

Contention is that some of the heirs of the aforesaid deceased-appellants are already on the record. Hence, there is no question of abatement of this appeal due to their death.

For substantial justice, prayer for substitution is allowed.

Amended cause title already filed be taken on record.

Call for lower court records.

By the impugned judgment and decree dated 16.01.2020 passed in Civil Suit No.189/2012, plaintiff-respondents' suit for specific performance of contract has been decreed.

The case and claim of the plaintiffs was that the plaintiffs had entered into an agreement to purchase property from four full brothers, all sons of late Kani Ram. The four brothers were defendants in the suit, they had inherited property of Kani Ram after death of Kani Ram. All the brothers jointly agreed to sell the suit property to the plaintiffs and not individually in respect of their respective identified share in Khasra. One of the brother Luta Ram died in the year 2017 and the impugned judgment and decree was passed in the year 2020.

Learned counsel for the appellants submits that the impugned judgment and decree was passed by the trial Judge against dead defendant late Luta Ram, therefore, the impugned judgment was passed against a dead person and was nullity as such.

Considering the submission aforesaid, operation of the impugned judgment and decree dated 16.01.2020 passed in Civil Suit No.189/2012 shall remain stayed till further order.

The respondents shall not create any third party right in respect of the suit property without permission of the Court.

List on 27.02.2025 under the heading final disposal at the admission stage.

(BIRENDRA KUMAR),J