

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil First Appeal No. 226/2015

Ms Chandrakanta Alias Kaku

----Appellant

Versus

Smt Mahendra Devi And Others

----Respondent

For Appellant(s) : Mr. Pradeep Kumar

For Respondent(s) : Mr. Peush Nag

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

06/03/2024

1. Heard on application Nos. 01/2020, 01/2022, 2/2022, 3/2022 and 4/2022 filed under Order 22 Rule 3 and 4, Order 22 Rule 4, 9 and 11 CPC and under Section 5 of Limitation Act.
2. On death of appellant defendant Chandrakanta on 23.12.2019, an application is filed for taking her adopted son Rudra through her guardian Smt. Santosh Devi on the basis of adoption deed dated 26.05.2009 on record.
3. Learned counsel for respondents submitted that the adoption deed is under challenge in civil suit No. 15/2020 before learned Additional District Judge No.2, Ajmer.
4. Considered the submissions of learned counsel for parties, application deserves to be allowed with liberty to learned counsel for respondent to raise issue of succession in place of Chandrakanta by adoption deed at the time of final adjudication of this appeal thus the application is allowed and Rudra (minor through Smt. Santosh Devi) is taken on record and substituted in place of deceased appellant Chandrakanta.

5. An application is filed to bring LR's of respondent No.8 Mukesh @ Bal Mukand Raj on record, who expired on 10.03.2020, whereas another application filed to bring LR's of respondent No.7 Smt. Champa on record, who expired on 26.11.2020. Further application under Section 5 of Limitation Act is filed for condonation of delay.

6. In support of application filed under Section 5 of Limitation Act, learned counsel for appellant has relied upon judgment of Hon'ble Supreme Court in case of **In Re Cognizance for Extension of Limitation (2022) 3 SCC 117.**

7. Having considered the submissions and contention in the applications, as right to sue survives in favour of LR's, therefore, applications are allowed and LR's as proposed in the application are taken on record and substituted in place of deceased respondent No.8 Mukesh @ Bal Mukand Raj and respondent No.7 Smt. Champa after condonation of delay and setting aside abatement, if any.

8. Amended cause title is taken on record.

9. All misc. applications stand disposed of.

10. List for hearing in July, 2024.

(ASHOK KUMAR JAIN),J