

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 4491/2021

M/s Vrindhawan Dham Builderv (India) Private Limited

-----Petitioner

Versus

M/s Ajay Meru Housing Development Private Limited

-----Respondent

For Petitioner(s) : Mr. Mohit Khandelwal

For Respondent(s) : Mr. Rajneesh Gupta

HON'BLE MR. JUSTICE BHUWAN GOYAL

Order

07/04/2025

Matter comes upon applications filed under Order XXII Rule 4 read with Order XXII Rule 10 of CPC (I.A. No.1/24) for setting aside abatement and taking legal representatives of the deceased respondent No.2-Rajendra Prasad Yadav on record as well as under Section 5 of the Limitation Act read with Order XXII Rule 4 (5)(a) of CPC (I.A. No.2/2024) seeking condonation of delay in filing application.

Learned counsel for the petitioner contends that respondent No.2- Rajendra Prasad Yadav died on 07.12.2021 but no information regarding his death was supplied by counsel for the respondent. This fact came to knowledge from the office report regarding service of notice issued to respondent No.2. In this way, delay has caused which is not intentional. Therefore, learned counsel prays for condonation of delay in filing application and setting aside abatement of appeal qua the respondent No.2.

Learned counsel for the respondents has not opposed the applications.

I have considered the submissions made at the Bar.

This Court is of the view that the delay caused in the matter is bona fide and thus, delay in filing application under Order XXII Rule 4 read with Order XXII Rule 10 of CPC is condoned.

For the reasons mentioned in the applications, same are allowed. The abatement of appeal qua respondent No.2 is set aside. The legal representatives of respondent No.2- Rajendra Prasad Yadav mentioned in Para 4 of the application under Order XXII Rule 4 of CPC are taken on record.

Learned counsel for the petitioner is directed to file amended cause title.

Issue notice to the legal representatives of respondent No.2, returnable within four weeks.

Requisites be filed within two weeks.

List after six weeks.

(BHUWAN GOYAL),J