

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 16682/2024

Mohd. Rafiq Ahmad S/o Late Rakku Khan, Aged About 75 Years,
R/o House No. 1230, Near Central Jain, Behind Minarva Cinema,
Sanganeri Gate, Jaipur (Raj.)

---Appellant-Petitioner

Versus

Abdul Jabbar S/o Late Sardar Khan, Aged About 77 Years, R/o
Plot No. B-11, Mahavir Colony, Near Bus Stand, Ramgarh Road,
Jaipur (Raj.) (Since Deceased) Through his legal heirs;

1/1. Shahid S/o Late Abdul Jabbar

1/2. Shakeer S/o Late Abdul Jabbar

1/3. Najma D/o Late Abdul Jabbar

All R/o House No.11, Mahaveer Colony, Ramgarh Mod, Jaipur
(Raj.)

----Respondent

For Petitioner(s)	:	Ms. Pallavi Mehta
For Respondent(s)	:	Mr. Jaideep Singh

HON'BLE MR. JUSTICE BIPIN GUPTA

Judgment / Order

27/02/2026

1. The matter comes upon an application I.A. No. 1/26 for early listing of the case.
2. For the reasons mentioned in the application, the same is allowed.
3. The matter is being heard today itself.
4. The present writ petition has been filed assailing the order dated 10.09.2024, passed by learned Additional District and Session Judge, No.9, Jaipur Metropolitan II, whereby, on account of the death of the respondent-plaintiff in Appeal No.88/2019 and

the delay in filing an application to bring the legal representatives on record, the appeal was dismissed as abated.

5. Learned counsel for the petitioner submits that the respondent-plaintiff expired on 18.08.2020, during the COVID period which is wrongly mentioned in the order dated 10.09.2024 as 19.08.2020.

6. Learned counsel for the petitioner further submits that the Hon'ble Apex Court in ***In Re : Cognizance for Extension of Limitation;*** (2022) SCC Online SC 27, has already condoned the period from 15.03.2020 till 28.02.2022. Learned counsel further submits that the application was filed on 30.10.2021 i.e. during the period that was condoned. However, without considering the judgment passed by the Hon'ble Apex Court, merely on account of the fact that the application has been filed after delay of 14 months, the application under Order 22 Rule 4 CPC has been rejected and the appeal has been abated.

7. Per contra, learned counsel for the respondent submits that the judgment dated 10.09.2024 has rightly been passed by the learned Trial Court. However, learned counsel could not refute the position of law as has been held by the Hon'ble Apex Court in ***In Re : Cognizance for Extension of Limitation*** (supra).

8. Heard learned counsel for both the parties and perused the material available on record.

9. This Court on perusal of the record finds that the respondent in Appeal No.88/2019 expired during the COVID period and the application under Order 22 Rule 4 CPC was also moved by the petitioner within the said period.

10. This Court also finds that the Hon'ble Apex Court in ***In Re : Cognizance for Extension of Limitation*** (supra) has already condoned the period during COVID and has held that in cases where the period expired on 28.02.2022, the same was extended by 90 days. Therefore this Court is of the considered opinion that the order dated 10.09.2024, cannot be sustained and therefore, the same is quashed and set aside. Accordingly, the application of the petitioner dated 30.10.2021 under Order 22 Rule 4 CPC stands allowed.

11. The matter is remanded back to the learned Appellate Court with a direction that the amended cause title may be taken on record and the learned Court shall proceed with the appeal No.88/2019, in accordance with law and decide the same as expeditiously as possible.

12. With the above observation, the present writ petition stands disposed of.

13. All pending application(s) also stand disposed of.

(BIPIN GUPTA),J