

**Court No. - 52**

**Case :-** SECOND APPEAL No. - 389 of 2001

**Appellant :-** Chandrabhushan Singh And Others

**Respondent :-** Bachan Singh

**Counsel for Appellant :-** R.K.S.Chauhan, ,Akhilesh Kumar Pandey,Sanjeev Mishra Gana

**Counsel for Respondent :-** Yogesh Agarwal,Sanjay Singh

**Hon'ble Harsh Kumar,J.**

**Order on Civil Misc. Application No.7 of 2019**

Heard Shri Akhilesh Kumar Pandey, learned counsel for appellant and Shri Sanjay Singh, learned counsel for Smt. Urmila, the proposed legal representative of sole respondent Bachan Singh.

Learned counsel for appellant submits that vide order dated 7.1.2019, the appeal was dismissed as abated after rejecting his application for condonation of delay and substitution of legal representative of sole respondent, on the application of abatement moved by Smt. Urmila wife of sole respondent.

He submitted that against above order dated 7.1.2019, the appellants approached the Apex Court through S.L.P. No.7384 of 2019 in which vide order dated 29.3.2019, at A-1 "Delay was condoned, Substitution was allowed and Abatement, if any, was set aside"; that in the circumstances in furtherance of the order passed by Apex Court in S.L.P. of appellant, substitution of legal representatives of sole respondent may be permitted.

No counter affidavit has been filed. However, learned counsel for proposed legal representative 1/1 Smt. Urmila Devi vehemently opposed the prayer of substitution and contended that vide order dated 29.3.2019, S.L.P. has been dismissed, so application no.7 of 2019 moved by appellant is misconceived and is liable to be rejected and since the substitution application has already been dismissed vide abatement order dated 7.1.2019 so the substitution application may not be allowed now.

Upon hearing parties counsel and perusal of record, I find that arguments advanced on behalf of respondent is totally misconceived. The Apex Court vide order dated 29.3.2019 at annexure 1 to the application clearly states that "Delay condoned, Substitution allowed and Abatement, if any set aside".

In view of order passed by Apex Court, the substitution application is allowed and the appellant to incorporate substitution in the memo in accordance with substitution application no.5 of 2018 after putting number "1" before the name of sole respondent and mentioned word "deceased" against his name.

Let amendment be incorporated in the memo of appeal within one week.

List in the month of December, 2019.

Learned counsel for appellant shall provide computer typed copies of judgments of two courts below as well as pleadings by the next date of listing.

**Order Date :- 25.9.2019**

Anil K. Sharma