

ITEM NO.3

COURT NO.11

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

I.A. 7/2016 in Petition(s) for Special Leave to Appeal (C) No(s).
10106/2004

(Arising out of impugned final judgment and order dated 29/10/2003
in CMWP No. 7181/1973 passed by the High Court Of Judicature at
Allahabad)

BRIJ NATH (D) BY LRS. & ANR.

Petitioner(s)

VERSUS

DUDH NATH @ DANGAR (D) BY LRS. & ORS.

Respondent(s)

(for recalling the court's order and office report)

Date : 05/08/2016 This application was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI
[IN CHAMBER]

For Petitioner(s) Mr. Dinesh Kumar Garg, Adv.
Mr. Deepak Mishra, Adv.

For Respondent(s) Mr. M. P. Shorawala, Adv.
Mr. R. D. Upadhyay, Adv.
Dr. Ashutosh Garg, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The Chamber Judge has passed the following Order on
18.04.2016:

"I.A. Nos. 2 & 3/2014

This application for substitution to bring
on record the legal representatives of Petitioner
No.2/3 is delayed by 886 days.

I.A No.4,5 & 6/2014

This application for substitution to bring on record the legal representatives of deceased respondent Nos.9 & 10 is delayed by 1025 days.

On 18.01.2015, following order was passed by learned chamber Judge:-

"As prayed for, four weeks' time is granted to learned counsel for the petitioners to file better affidavit explaining delay in filing substitution application."

An affidavit has since then been filed. However, no explanation has been made in the affidavit on the basis of which delay could be condoned.

In the circumstances, these interlocutory applications are dismissed."

Interlocutory Application No. 7 of 2016 has been filed for recalling the above Order dated 18.04.2016. Learned counsel for the petitioner submitted that the delay in filing the applications occurred on account of the fact that the present case was being contested for long time by the petitioner and since the parties are residing in remote area, the application to bring on record the Lrs. of petitioner Nos. 2 & 3 and also deceased respondent nos. 9 & 10(1) could not be filed in time and there was a delay and while filing the application earlier the delay could not be properly explained.

For the reasons stated in the supporting affidavit and considering the submission of the learned counsel for the petitioner, Order dated 18.04.2016 is ordered to be recalled and is to be restored to its original number.

Service of Lrs. of respondent Nos. 9 & 10 is complete as per office note dated 23.11.2015. Lrs. of deceased respondent Nos. 9 & 10(1) are ordered to be brought on record.

(NEELAM GULATI)
COURT MASTER

(MADHU NARULA)
COURT MASTER