

SECTION IV

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NOS. 5198 OF 2008, 1113 OF 2009

WITH

CIVIL APPEAL NO. 5562 OF 2009

AND

INTERLOCUTORY APPLICATION NO.

(Application for bringing on record the LRs. of deceased Respondent Nos. 1, 5, 16 and 25)

WITH

INTERLOCUTORY APPLICATION NO.

(Application for bringing on record the LRs. of deceased Respondent Nos. 2, 26, 31, 38 and for deletion of Respondent No. 41)

WITH

INTERLOCUTORY APPLICATION NO.

(Application for recalling of Court's order dated 27.02.2014)

WITH

CIVIL APPEAL NO. 8551 OF 2009

AND

INTERLOCUTORY APPLICATION NO.

(Application for substitution of Lrs. of deceased Respondent Nos. 1 and 4)

AND

CIVIL APPEAL NOS. 5256 OF 2012, 7573 OF 2009, 5727 OF 2011 AND 9616 OF 2010

Singh Ram(Dead) Tr. Lr. etc. etc.

...Appellants

VERSUS

Sheo Ram & Ors. etc. etc.

...Respondents

REVISED OFFICE REPORT

The matters above-mentioned were listed before the Hon'ble Court on 29th April,, 2014, when the Court was pleased to pass the following Order:-

"Learned counsel for the parties submit that in some of the connected matters, the respondents have yet to be served. The cases are not therefore ready for final hearing on the question referred to us.

Post after ensuing summer vacation after the completion of the preliminaries including service upon the unserved respondents.

..2/-

..2..

SLP(C) No. 26861 of 2008

Learned counsel for the respondent submits that the petitioner has passed away. Counsel for the petitioner to take steps for substitution and bring on record the legal representatives of the deceased-petitioner. Six weeks' time is granted to do the needful.

Post for hearing after summer vacation after the preliminaries are complete.”

SERVICE POSITION IS AS UNDER:-

CIVIL APPEAL NO. 5198 of 2008, 1113, 7573 of 2009 and 5727 of 20011

Service is complete.

CIVIL APPEAL NO. 5562 OF 2009

There are 43 Respondents in this appeal. Mr. Shahid Anwar, Advocate has put in appearance on behalf of Respondent Nos. 3, 4, 9, 10, 11, 17, 19, 20, 21, 22, 23, 29, 32, 33, 34, 35, 36 and 39. Certificate of Service in respect of Respondent Nos. 8,12,13,14,15,18,27,29,30, 37, 40, 42 and 43 have been received from High Court but they have chosen not to enter appearance so far. Notice in respect of Respondent Nos. 6,7, 24 and 28 has been received back with remarks “incomplete address” .

It is submitted that High Court vide its letter dated 27.03.2010 has reported that Respondent Nos. 1,2,5,16,25,26,31,38 and 41 have expired. Ms. Manjusha Wadhwa, Advocate has on 20.05.2013 filed an application for bringing on record the LRs. of deceased Respondent Nos. 1, 5, 16 and 25 alongwith application for condonation of delay in filing substitution application . There is a delay of 3663, 4963, 3875 and 3822 days in filing substitution application. Notice of motion are already endorsed and handed over to Counsel to serve the Notice on the Lrs. of deceased Respondents, but till date affidavit of service has not been filed.

Further, Counsel for the appellant has on 17.02.2014 filed application for bringing on record the Lrs. of deceased Respondent Nos. 2,26, 31 and 38. The application is still defective as he has not filed death certificate in respect each of the deceased Respondents and also filed an application for deletion of Respondent No. 41.

The matter was listed before the Hon'ble Judge in Chambers on 27th February, 2014 with office report on default dated 10.12.2013, when the Court was pleased to pass the following order:

“Despite giving opportunity to the appellant by this Court by order dated 06.02.2014 to take steps by substituted service of notice on the unserved respondents, the steps are not taken by the appellant. Accordingly, the civil appeal as against the unserved respondents stands dismissed.

Post the matter before the Bench to pass appropriate orders.”

It is submitted that Ms. Manjusha Wadhwa, Advocate has on 28.03.2014 filed an application for recall of order dated 27.02.2014 against the unserved respondent Nos. 6, 7, 24 and 28.

CIVIL APPEAL NO. 8551 OF 2009

There are 14 respondents. Respondent Nos. 5 and 6 are represented by Dr. (Mrs.) Vipin Gupta, Advocate. Respondent Nos. 2, 3, 7, 8, 10 and 11 have been served with Notice of Lodgment of Petition of Appeal through High Court but they have chosen not to enter appearance. Respondent Nos. 9, 12, 13 and 14 have been deleted from the array of the parties vide this Court's order dated 17.09.2013.

It is submitted that Respondent Nos. 1 and 4 are reported dead. Mrs. Rekha Palli, Counsel for the appellants has on 26.04.2012 filed an application for substitution for bringing on record the Lrs. of deceased Respondent Nos. 1 and 4 but the same is defective for the following reasons:-

1. Counsel has neither mentioned the date of death of the deceased Respondent nor filed death certificate. Accordingly, application for condonation of delay in filing the application for substitution is required.
2. The averment regarding “no other Lrs. except mentioned in the application” has not been given in the application.

The matter was listed before the Hon'ble Judge in Chambers on 14th February, 2014 ,with office report on default dated 21st December, 2013, when the Court was pleased to pass the following order:

“Four weeks' time is granted to learned counsel for the appellants to cure the defects in the application for substitution of LR's of deceased Respondent Nos. 1 and 4.”

It is submitted that Counsel for the appellant has not done the needful till date.

CIVIL APPEAL NO. 5256 OF 2012

There are 10 respondents in this appeal. Respondent Nos. 1 to 3, 5, 7, 8 and 10 have been served with Notice of Lodgment of Petition of Appeal through High Court but they have chosen not to enter appearance so far.

Mr. Kunden Kumar Mishra has filed Vakalatnama on behalf of Respondents Nos. 1 to 4.

Notice in respect of Respondent Nos. 5 and 9 have been received back with remarks “not residing at the given address”. Respondent No. 6 has expired but counsel for the appellant has not taken any steps despite this Registry's letter dated 08.03.2013 and 25.06.2013.

Service is not complete.

It is submitted that Counsel for the appellants has not filed Statement of Case till date despite this Registry's Notice dated 25th July, 2013.

CIVIL APPEAL NO. 8132 OF 2011

There are nine respondents in this Appeal. Respondent No. 7 is represented by Md. Shahid Anwar, Advocate. Respondent Nos. 1, 3 to 6 have been served with Notice of Lodgment of Petition of Appeal through High Court and certificate of service is awaited in respect of Respondent No. 8. Respondent Nos. 2 and 9 have been deleted from the array of the parties vide Court's Order dated 16.09.2011 and 05.11.2012 respectively.

It is submitted that Counsel for the appellant has filed Statement of Case but Counsel for the respondent has not filed Statement of case till date.

CIVIL APPEAL NO. 9616 OF 2010

It is submitted that the High Court vide its letter dated 28.05.2011 has informed that sole respondent in the matter has expired. Counsel for the appellant has not taken any steps to bring on record the Lrs. of deceased sole respondent.

Service is not complete.

Original Record in all the matters have been received from the High Court and are available in this Registry for the reference of the Hon'ble Court .

The appeal above-mentioned is listed before the Hon'ble Court with this report.

Dated this the 19th day of July, 2014.

-sd/-

ASSISTANT REGISTRAR

Copy to:

1. Mr. Abhishek Atrey, Advocate
2. Mr. Ajay Kumar, Advocate
3. Mr. Vikas Upadhyay, Advocate
4. Mr. Debasis Misra, Advocate
5. Mr. Brij Bhushan, Advocate
6. Mr. Sudarshan Lal Aneja, Advocate
7. Mr. R.K. Adsure, Advocate
8. Mr. Gagan Gupta, Advocate
9. Md. Shahid Anwar, Advocate
10. Mr. P.K. Jain, Advocate

ASSISTANT REGISTRAR