

SECTION – IX
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

PETITITON FOR SPECIAL LEAVE TO APPEAL (C) NO. 22460 OF 2009

AND

INTERLOCUTORY APPLICATION NO.....

(Application for bringing on record the LRs. of deceased Respondent Nos. 2 and 3 and deletion the name of Respondent No.5)

WITH

INTERLOCUTORY APPLICATION NO.....

(Application for condonation of delay in bringing on record the LRs. of deceased Respondent Nos. 2 and 3).

IN

PETITITON FOR SPECIAL LEAVE TO APPEAL (C) NO. 27746 OF 2011

RAJENBHAI BALDEVHHAI SHAH ETC. ...PETITIONERS

-VERSUS-

DHULABHAI FAKIRBHAI (DEAD) & ORS. ETC. ...RESPONDENTS

OFFICE REPORT FOR DIRECTIONS

The matters above-mentioned along with connected matters were listed before the Hon'ble Court on 23rd September, 2013, when the Court was pleased to pass the following Order:-

“According to Office Report dated 20th day of September, 2013, respondent Nos. 1, 3 and 4 in S.L.P. (C) No. 22640 of 2009 have expired and that advocate-on-record for the petitioner has not taken any steps for their substitution. Advocate-on-record for the petitioner is directed to take appropriate steps within four weeks for bringing on record the legal representatives of the deceased respondent Nos. 1, 3 and 4.

Office Report further states that in S.L.P. (C) No. 27746 of 2011 respondent Nos. 2 and 3 are reported to be dead and application for their substitution has been filed which is said to be defective. Advocate-on-record for the petitioners is directed to take appropriate steps for removing the defects or, if advised, may file fresh application for substitution within four weeks.

Applications for substitution may be posted for consideration before the Chamber Judge.

List this group of special leave petitions after they are complete in all respects.”

PETITITON FOR SPECIAL LEAVE TO APPEAL (C) NO. 22460 OF 2009

It is submitted for the information of the Hon'ble Court that pursuant to aforesaid Order, Counsel for the petitioner has not filed an application for bringing on record the LR. of deceased Respondent Nos. 1, 3 and 4 in the instant matter so far.

PETITITON FOR SPECIAL LEAVE TO APPEAL (C) NO. 27746 OF 2011

It is submitted for the information of the Hon'ble Court that Ms. Poli Katak, the then Advocate for the Petitioner had on 13.03.2012 filed application for bringing on record the LR. of deceased Respondent Nos. 2 and 3 which is barred by time by 2913 and 458 days respectively for which the counsel has filed an application for condonation of delay in bringing on record the LR. of deceased Respondent Nos. 2 and 3 and in respect of Respondent No.5, the counsel has stated in the application at para No.7 at page 4 that " the Respondent No.5, Amratben Bhimsing Brahmhatt has also expired and there are no legal heirs of respondent, hence her name may be deleted from the array of parties".

It is further submitted that the application for substitution is defective for the reasons that:-

- (i) The names of deceased Respondent Nos. 2 and 5 does not tally with the death certificate.
- (ii) Application for setting aside abatement has not been filed.
- (iii) Chamber summons have not been filed in respect of Respondent Nos. 2 and 3.

It is further submitted that the then counsel for the petitioner instead of curing the defects filed a letter dated 01.08.2012 (copy enclosed) stating therein that there is a typographical error in the death certificates of deceased Respondent Nos. 2 and 5 and since the petitioner is unable to obtain a corrected death certificate from the applicant, the application may be listed before the Hon'ble Court as it is at the risk of the petitioner.

It is lastly submitted that Respondent Nos. 2, 3 and 5 died before the filing of SLP. However, they have not been brought on record before the Court of Mamlatdar and Agriculture Land Tribunal, Vadodara as they have died on 26.07.1998, 11.10.2010 and 05.12.1993 respectively.

The un-registered applications in the matters above-mentioned are listed before the Hon'ble Judge in Chambers with this report.

Dated this the 26th day of August, 2015.

Sd/-
ASSISTANT REGISTRAR

Copy to:

Ms. K.V. Bharti Upadhyaya, Adv.
Ms. Hemantika Wahi, Adv.
Mr. S.C. Patel, Adv.

Mr. Mohit D. Ram, Adv.
Mr. Vipin Kumar Jai, Adv.

at

ASSISTANT REGISTRAR