

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal No(s). 2268-2298/2013

DISTT. COLLECTOR &amp; ORS.

Appellant(s)

VERSUS

P.M. SHIKH &amp; ANR. ETC. &amp; ANR.

Respondent(s)

(only Civil Appeal 5080/2013 is to be listed before Hon'ble Judge in Chamber.)

WITH

C.A. No. 5080/2013 (III)

(IA No. 19417/2022 - APPLICATION FOR SUBSTITUTION

IA No. 19420/2022 - CONDONATION OF DELAY IN FILING SUBSTITUTION APPLN.)

Date : 20-02-2023 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPANKAR DATTA  
[IN CHAMBERS]For Appellant(s) Ms. Aparna Bhat, AOR  
Ms. Karishma Maria, Adv.  
Ms. Deepanwita Priyanka, AORFor Respondent(s) Mr. Nikhil Goel, AOR  
Ms. Naveen Goel, Adv.  
Mr. Gaurav Agrawal, AOR  
Mr. V. K. Sidharthan, AORMs. Aparna Bhat, AOR  
Ms. Karishma Maria, Adv.Ms. Neha Agarwal, Adv.  
Mr. E. C. Agrawala, AOR

Ms. Deepanwita Priyanka, AOR

M/S. Lawyer S Knit & Co, AOR  
Mr. Bina Madhavan, Adv.  
Mr. Eeshan D. Khaire, Adv.  
Mr. Katubadi Ismail, Adv.

UPON hearing the counsel the Court made the following

O R D E R

IA No. 19417 of 2022

1. This is application for substitution of the legal heirs of the respondent no. 5 (since deceased), presented by the respondents. The appellants have not applied for substitution. Although Rules 3 and 4 of Order 22 of the Civil Procedure Code does not say who is to make an application, ordinarily it is for the plaintiff or the appellant to make such an application. This is because if the suit/appeal abates against the deceased defendant/respondent, it is the legal heirs of the deceased who would stand to gain by abatement of the suit/appeal. Reference may be made to the decision in Union of India vs. Ram Charan, reported in AIR 1964 SC 215, in this connection. Interest of justice would be sufficiently served if the death of the respondent no.5 is intimated by the respondents to the appellants, if not already intimated, within 3 (three) weeks. This would enable the appellants to take steps in accordance with law, if so advised, failing which consequences shall follow, meaning thereby that the appeal shall abate as against the deceased respondent no.5.

2. On the aforesaid terms, this application is disposed of. No costs.

(SHUBHAM YADAV)  
SENIOR PERSONAL ASSISTANT

(RAM SUBHAG SINGH)  
BRANCH OFFICER