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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision: 04th August, 2025**

+ RFA 394/2012, CM APPL. 261/2024 & CM APPL. 262/2024

PL VASUDEVAAppellant

Through: Mr. Rajeev Vasudeva, LR of
Appellant
M: 9990045932

versus

ML SHARMA & ANR.Respondents

Through: Mr. Satish Chander, LR of R-1
M: 9811706298
Ms. Saroj Bidawat, SC for MCD
(Through VC)
M: 9810340866
Mr. Puneet Bajaj, Adv. for LR of R-1
(Through VC)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J: (Oral)

1. Mr. Rajeev Vasudeva, son of Late Mr. P.L. Vasudeva, i.e., the appellant, puts in appearance.
2. This Court notes that the appellant has expired way back on 22nd July, 2014, and the same has also been noted in the order dated 24th February, 2025, of the learned Registrar, which reads as under:

“xxx xxx xxx

RFA.No. 394/2012

1. The matter was admitted on 08.07.2013.

2. Vide Order dated 21.05.2014, time was granted to the appellant to



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file amended memo of parties, pursuant to impleadment of LR of deceased-respondent no. 1.

*3. Vide Order dated 25.01.2016, last opportunity was granted to file the amended memo of parties failing which hon'ble Court had observed that **consequences will follow**.*

3. On 07.08.2023, the hon'ble Court granted last opportunity to the appellant to file amended memo of parties and it was observed that in case the appellant does not take action as directed, the appeal will be dismissed for non-prosecution.

4. The appellant-P.L. Vasudeva expired on 22.07.2014.

5. On 05.12.2023, CM No. 62736/2023 was moved by the appellant with the prayer that their application under Order XXII, Rule 3, CPC filed in 2014 be taken up for hearing for bringing on record the LR of deceased-appellant.

It was observed by the hon'ble Court that the said application, stated to have been filed in 2014 is not on record nor the Registry is able to trace out the same. It was further observed as follows:

*“In view of the above, the present application is disposed-of, directing the appellant to move a fresh application seeking substitution of the legal representatives of the deceased-appellant. Subject to verifying that the earlier application under Order XXII, Rule 3, CPC was **indeed filed**, the issue of condoning the delay in filing the fresh application would be considered favourably.”*

6. Report of the Filing Branch in respect to the CM application filed by Mr. H.K.Shekhar vide diary no.200490 is recorded in the Order dated 30.05.2024. The CM filed with diary no.200490 was returned on 01.05.2015 and not re-filed.

*7. CM No. 261/2024 u/Order XXII, Rule 3, CPC is moved by the appellant **on 20.12.2023** to implead the proposed LR of deceased-appellant and CM. No. 262/2024 (u/Section 5 of the Limitation Act) seeking condonation of delay of 3378 days.*

7. Despite repeated opportunities and imposition of costs, amended memo of parties is not filed yet nor costs deposited.

8. Even in the applications filed for impleadment of LR of deceased-appellant and for condonation of delay, the only ground/reason stated for non-filing of the application under Order XXII, Rule 3, CPC within the stipulated time, as stated in para 3 of CM No.261/2024 reads as



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under:

“the appellant was directed to file the amended memo of parties in the above-mentioned matter but failed to file the same on one account and another and lastly the Hon'ble Court directed the appellant to file amended memo of parties within 7 days vide his order dated 07.08.2023 and the said memo was filed by the appellant through E-filing. The said memo was on objection on the ground that amended memo is to be filed with LR's of respondent no.1 only and not the appellant and then the appellant came to know about non-consideration of his application filed by him in the year 2014.”

9. In CM No.262/2024, it is stated in para 3 as under:

.....

“Somehow the counsel of appellant on account of certain bonafide omissions believed that the application filed by the LR's of the appellant under O22R3 read with section 151 CPC was considered by the Hon'ble Court and under the same belief the case was pursued by the counsel of Appellant.”

10. Learned counsel appearing on behalf of counsel for the appellant submits that the appellant is not giving any instructions in this matter nor willing to deposit the cost. Learned counsel submits that he will file application seeking withdrawal of his vakalatnama.

11. Appellant was contacted over the phone (Mob. No.9810740932) by the learned counsel for the appellant in the Court today and he displayed total lack of interest in pursuing the matter. He is informed to remain present before the hon'ble Court on the next date.

12. Mr. Satish Chandra - son of deceased-Respondent, aged 74 years, submits that for the last 20 years they are made to suffer because of the attitude and delaying tactics of the appellant.

13. List the matter before the Hon'ble Court on 05.03.2025.”

3. A perusal of the aforesaid order shows that time was granted to the appellant to take various steps to file an Amended Memo of Parties to bring on record the legal heirs of the deceased respondent no.1. However, no steps were taken with regard thereto. Further, this Court notes that the said order dated 24th February, 2025 clearly records that the appellant had passed away



on 22nd July, 2014.

4. Further, an application was stated to have been filed in the year 2014 to bring on record the legal heirs of the deceased appellant. However, the said application was returned on 01st May, 2015 and was not re-filed.

5. Further, the cost imposed upon the appellant was also not paid.

6. This Court further takes note of the order dated 10th September, 2024, which reads as under:

“RFA 394/2012

1. Vide order dated 21.05.2014, LRs of deceased respondent No. 1 were taken on record and a direction was issued to the appellant to file amended memo of parties within two weeks.

2. Subsequently, order dated 25.01.2016 was passed. Para 7 and 8 of said order dated 25.01.2016 read as under:-

“para 7 : Amended memo of parties has not been filed by the appellant despite repeated opportunities.

“para 8 : Last opportunity is given to file the same within four weeks failing which the consequences shall follow.”

3. This Court notes that more than eight years have elapsed since the order dated 25.01.2016 was passed directing appellant to file amended memo of parties. However, till date amended memo of parties has not been filed.

4. This court notes that in order to ensure that the appeal is properly constituted qua respondent No.1, it was imperative on the part of appellant to file amended memo of parties as LRs of R-1 have been taken on record way back on 21.05.2014.

5. Hence, to put the judicial record of the present case in order, let amended memo of parties be filed pursuant to order dated 21.05.2014 and 25.01.2016, after payment of costs of Rs.5,000/- to be deposited by appellant/applicants with the Secretary, Delhi High Court Legal Services Committee, within four weeks.

6. Re-notify on 04.10.2024, awaiting proof of payment of costs of Rs.5,000/-, and filing/placing of amended memo of parties.”

7. Perusal of the aforesaid order again shows that no steps were taken by the appellant with regard to bringing on record the legal heirs of the



deceased respondent no. 1.

8. Further, the said order clearly shows that legal heirs of the deceased respondent no. 1 were taken on record on 21st May, 2014, however, the Amended Memo of Parties showing the legal heirs of the deceased respondent no. 1 on record, has not been filed by the appellant or his legal heirs till date.

9. Clearly, the legal heirs of the appellant are not interested in pursuing the present appeal.

10. Now, *CM APPL. 262/2024* has been brought on record, with an application for condoning the delay of 3378 days in filing the application for bringing on record the legal heirs of the deceased appellant.

11. The Supreme Court, in the case of ***“Shanti Devi and Others Versus Kaushaliya Devi”***, (2016) 16 SCC 565, while deciding an appeal against the condonation of delay of more than 11 years in filing of a substitution application for bringing on record the legal representatives of the appellant therein, has held as under:

“xxx xxx xxx

14. Having gone through the papers on record, as discussed above, and keeping in mind the spirit of the provision contained in Rule 3 of Order 22 CPC read with Article 120 of the Schedule of the Limitation Act, 1963, in our opinion the first appellate court and the High Court have committed grave error in law in condonation of delay of more than eleven years in moving substitution application, and setting aside the abatement in the present case, particularly when the respondent daughter of the deceased had full knowledge of death of her father and also of the litigation pending before the first appellate court. Delay cannot be condoned on insufficient grounds and by abusing the process of law. We do not find that any sufficient reason was shown by the respondent before the courts below to get huge delay of eleven years condoned, for setting aside abatement, and her substitution.

xxx xxx xxx”

(Emphasis Supplied)



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12. Thus, even in the present case, no sufficient cause has been shown for condoning the delay of more than 09 years in filing the application for bringing on record the legal heirs of the deceased appellant, despite multiple orders of this Court and due knowledge.

13. Accordingly, the present appeal, along with the pending applications, is dismissed as having been abated, and also for non-prosecution.

MINI PUSHKARNA, J

AUGUST 4, 2025/KR