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

% ***Date of decision: 02nd September, 2026***

CNR No. DLHC010371332018

+ **RSA 18/2018, CM APPL. 22724/2019**

GEETA

W/o Late Sh. Sushil Kumar

D/o Sh. Dharambir Singh

R/o RZ-112, Gali No.6

East Sagar Pur, Delhi-110046.

Also at:

H. No.372, Barwala,

Delhi-110039.

.....Appellant

Through: Ms. Niyati Sharma, Advocate.

versus

SOMPAL SINGH

S/o Sh. Mukhtiyar Singh

R/o RZ-112, Gali No.6,

East Sagar Pur, Delhi-110046.

.....Respondent

Through: Ms. T Imlinaro Jamir, Advocate for
R-3 & 4.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

NEENA BANSAL KRISHNA, J.

CM APPL. 68287/2024 & CM APPL. 68288/2024:

1. **CM APPL. 68287/2024** under **Order XXII Rule 4** read with **Section 151** of the Code of Civil Procedure, 1908 (hereinafter referred to as the



“CPC”) has been filed by the **Appellant, Smt. Geeta**, seeking substitution of the legal representatives of the deceased Respondent, **Late Sh. Sompal Singh**.

2. It is submitted in the Application that the **aforesaid Regular Second Appeal**, is pending adjudication before this Court.

3. The Respondent, Sh. Sompal Singh, expired on **04.05.2021**. He is stated to have left behind his wife **Smt. Ram Roshini**, son **Sh. Anil Kumar**, daughter **Smt. Kumari Anita**, grandson **Mr. Adharsh** and granddaughter **Ms. Monika**, being the children of his pre-deceased son, Late Sh. Sushil Kumar. **Smt. Geeta, the Appellant herein, is herself the widow of Late Sh. Sushil Kumar**. A prayer has, therefore, been made for bringing the legal representatives of Late Sh. Sompal Singh on record. In the Amended Memo of Parties, **Smt. Ram Roshini, Sh. Anil Kumar, Mr. Adharsh, Ms. Monika and Smt. Kumari Anita**, have been arrayed as Respondent Nos. **1 to 5 respectively**.

4. The Application for substitution is supported with **CM APPL. 68288/2024** under **Section 5 Limitation Act, 1963** read with **Section 151 CPC**, seeking condonation of delay, stated to be **1279 days**, in moving the Application for substitution.

5. It is asserted that the Application for substitution could not be filed within the prescribed period and *that the delay was neither intentional nor deliberate, but had occurred on account of circumstances beyond the control of the Appellant*.

6. The Appellant has further asserted that this Court had directed her to file the appropriate Application, though according to her, the initial responsibility to bring the legal representatives of the deceased Respondent



on record, was upon the Respondent's side. Reliance has been placed upon the **Order dated 22.01.2024**, pursuant to which the present Applications are stated to have been filed. It is, therefore, prayed that the delay in seeking substitution of the legal representatives of Late Sh. Sompal Singh be condoned.

7. **Respondent No.1, Smt. Ram Roshini; Respondent No.2, Sh. Anil Kumar; and Respondent No.5, Smt. Kumari Anita** have filed their Reply and have contested the Applications.

8. A *preliminary objection* has been taken that Late Sh. Sompal Singh expired on 04.05.2021 and the Appellant as well as her children, were duly aware of his demise. It is asserted that the Appellant, being the daughter-in-law of Late Sh. Sompal Singh, had complete knowledge not only of his demise but also of his legal representatives and was, therefore, required to take appropriate steps for their substitution within the prescribed period. It is pursuant to the Order of this Court dated 22.06.2024 that the present Application has been filed in November, 2024.

9. It is further asserted that an Application under Order XXII Rule 4 CPC was required to be filed within **90 days from the date of death of the Respondent**. However, no such Application was filed within the prescribed period. On the failure to seek substitution within the prescribed period of 90 days, the Appeal stood abated against the deceased Respondent.

10. ***The Application has been filed after a delay stated to be 1279 days and is hopelessly barred by limitation.*** Furthermore, it is the delay of each and every day that needs to be explained in the Application, but not a single reason has been stated by the Appellant.

11. It is, therefore, submitted that the Application for substitution is liable



to be dismissed.

Submissions heard and record perused.

12. The **Appellant, Smt. Geeta**, is the widow of Late Sh. Sushil Kumar, son of the original Respondent, Late Sh. Sompal Singh. Late Sh. Sompal Singh had instituted **Civil Suit No.176/2008** against the Appellant seeking possession of one room on the first floor, which was in her possession. The Suit was decreed in favour of Sh. Sompal Singh, *vide* Judgment and Decree dated **27.11.2015**, which has been assailed by the Appellant in the present Regular Second Appeal.

13. During the pendency of the Appeal, the sole Respondent, **Sh. Sompal Singh, expired on 04.05.2021**. Significantly, the factum of his death was admittedly known to the Appellant, he being her father-in-law. It has also been asserted on behalf of the Respondents that the Appellant had attended his last rites. It has further been pointed out on behalf of the Respondents that proceedings in respect of the **Will of Late Sh. Sompal Singh** are also being contested by the Appellant, in the Court proceedings.

14. These circumstances leave little doubt that the Appellant was aware of the demise of the Respondent as well as of his legal representatives. Despite such knowledge, no steps were taken within the prescribed period for bringing the legal representatives of the deceased Respondent, on record.

15. **Order XXII Rule 4(3) CPC** provides that where, within the time prescribed by law, no Application is made for substitution of the legal representatives of a deceased Defendant/Respondent, the proceedings shall abate as against the deceased party. By virtue of **Order XXII Rule 11 CPC**, the provisions of Order XXII are equally applicable to Appeals.

16. Admittedly, no Application for substitution was filed within the



prescribed period of 90 days and the Appeal, therefore, stood abated against the sole Respondent upon expiry of the prescribed period.

17. **Order XXII Rule 9(2) CPC** enables a party to seek setting aside of the abatement upon showing that *he/she was prevented by sufficient cause from continuing the proceedings*. Sub-Rule (3) further makes the provisions of **Section 5 of the Limitation Act, 1963** applicable to such an Application.

18. In the present case, the Appellant has filed an Application under Order XXII Rule 4 CPC in November 2014, i.e. after a delay of 1279 days, for substitution of the legal representatives and an Application under Section 5 of the Limitation Act seeking condonation of delay. **No specific Application under Order XXII Rule 9(2) CPC seeking setting aside of the abatement has been filed.** However, even without adopting a hyper-technical approach, the essential question remains whether the Appellant has been able to disclose any **sufficient cause** which prevented her from taking the requisite steps within the prescribed period.

19. A perusal of the Application under Section 5 of the Limitation Act shows that **no specific reason whatsoever, has been disclosed for the delay.** The Appellant has essentially sought to rely upon the Order dated **22.01.2024**, whereby the particulars of the legal representatives of the deceased Respondent were furnished and learned Counsel for the Appellant sought time to move an appropriate Application.

20. Pertinently, on 22.01.2024, learned Counsel for the Appellant had submitted that the necessary steps ought to have been taken earlier, while learned Counsel appearing on behalf of the Respondent pointed out that the Appellant, being the daughter-in-law of Late Sh. Sompal Singh, was already aware of his legal representatives. The matter was thereafter, adjourned to



10.04.2024 to enable the Appellant to take appropriate steps under Order XXII CPC.

21. However, even thereafter, no prompt steps were taken. On **06.09.2024**, it was recorded that though an Application under Order XXII Rule 4 CPC was stated to have been filed, the same was not on record. The Applications eventually came on record thereafter in **November, 2024**. Thus, even after the Order dated 22.01.2024 expressly affording an opportunity to the Appellant to take appropriate steps, there remained a substantial further delay of about seven months, for which, again, no explanation has been furnished.

22. Learned Counsel for the Appellant has sought to contend that it was the responsibility of the learned Counsel appearing for the deceased Respondent to bring his legal representatives on record and that since no such steps were taken from their side, the Appellant eventually moved the present Applications.

23. The contention is wholly misconceived. The **Appellant, who seeks continuation of the Appeal against the deceased Respondent, was required to take steps for substitution of his legal representatives**. More importantly, in the present case, the Appellant cannot even claim ignorance either of the death of the Respondent or of the identity of his legal representatives, she herself being his daughter-in-law who had attended the last rites and is also contesting the proceedings in regard to the Will of deceased Respondent. Even after their particulars were expressly furnished before this Court on 22.01.2024, the Appellant did not act with the requisite diligence.

24. The Application is conspicuously silent as to what prevented the



Appellant from moving the Application within 90 days of the death of the Respondent on 04.05.2021. There is equally no explanation for the period thereafter or even for the delay subsequent to the Order dated 22.01.2024. A mere assertion that the delay was neither intentional nor deliberate and had occurred due to circumstances beyond the control of the Appellant, **without disclosing what those circumstances were, cannot constitute sufficient cause** for condonation of such an inordinate delay.

25. In these circumstances, **no sufficient cause has been shown for condonation of the delay.** Moreover, the Appeal having already abated against the sole Respondent, no ground has been made out for setting aside the abatement or for bringing his legal representatives on record.

Accordingly, **CM APPL. 68287/2024 and CM APPL. 68288/2024 are hereby dismissed.** Consequently, the present Regular Second Appeal, having abated against the sole Respondent, is also **dismissed as abated.** The pending Applications, if any, are disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

SEPTEMBER 02, 2026

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