

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

INTERLOCUTORY APPLICATION NO 3

(Application for Substitution)

And

INTERLOCUTORY APPLICATION NO. 4

(Application for Exemption from filing Official Translation of Death Certificate)

And

INTERLOCUTORY APPLICATION NO. 5

(Application for condonation of delay in filing substitution application)

IN

CIVIL APPEAL NO. 9590 OF 2011

State of U.P. & Ors.

.....Appellant

-Versus-

M/s Kesar Enterprises Ltd.

.....Respondents

OFFICE REPORT

The instant matter was listed before the Hon'ble Court on 31st October, 2011 alongwith other Connected matters when the Court was pleased to pass the following order :

“Leave granted.

The appeals will be heard on the SLP Paper Books. Additional documents, if any, may be filed by the parties.”

Accordingly, notice of Lodgment of Petition of Appeal was issued to the sole respondent through the High Court of Judicature at Allahabad. High Court has sent the certificate of service stating therein that the Vice President of sole respondent Company namely Sh. H.S. Malik has already expired on 11th February, 2010.

It is submitted that Advocate for the Appellant has on 7th September, 2015 filed an Application for Substitution praying therein that the appellant may be permitted to substitute the respondent in the said Civil Appeal No. 9590 of 2011 as : “M/s Kesar Enterprises, Baheri, District Bareilly, through its authorised representative/Assistant Manager, Sri Akhilesh Mehra” in place of M/s Kesar Enterprises, Baheri, District Bareilly, through its Vice President Shri H.S. Malik” alongwith application for exemption from filing official translation of death certificate. The application for substitution is barred by time by 1944 days. But the said application for substitution was defective as counsel for the appellant had not filed Annexue A of said application.

The Office Report with regard to not curing the defects in filing the application for substitution was listed before the Hon'ble Judge in Chamber on 2nd September, 2016, when His Lordship was pleased to pass the following order :

“On 15.7.2016, despite the last opportunity having been granted on an earlier occasion, further time was afforded to the learned counsel for the appellants, to cure the defects in the application for substitution. However, learned counsel for the appellants has failed to take appropriate steps.

In view of the above, one further opportunity is granted to the learned counsel for the appellants to remove the defects in the application for substitution, subject to payment of costs of Rs. 5,000/- to be paid to the Supreme Court Advocates-on-Record Welfare Trust, within one week from today. Defects in the application for substitution be removed within two weeks thereafter.”

It is submitted that Pursuant to above-said order, counsel for the appellants has on 14th September, 2016 filed proof of payment of the cost of Rs. 5000/- as directed by the Hon'ble Court and the same is barred by time by 4 days, but the counsel has not filed the condonation of delay in depositing the cost.

It is submitted that Mr. Ravi Prakash Mehrotra, Counsel for the appellant has cured the defects in the Application for substitution and also filed application for Condonation of delay in filing substitution application as there is delay of 1944 days in filing Application for substitution. Now, Application for substitution, Application for exemption from filing official translation of death certificate and application for condonation of delay in filing substitution application have been registered as I.A. Nos. 3, 4 and 5 respectively. Copies of the said applications have been placed with main Civil Appeal paper books.

The aforesaid applications in the appeal are listed before Hon'ble-Judge-in Chambers with this office report.

Dated this the 10th day of January, 2017.

ASSISTANT REGISTRAR

Copy to:-

1. Mr. Ravi Prakash Mehrotra, Advocate
100, Lawyers' Chamber

ASSISTANT REGISTRAR

c1/sm

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

INTERLOCUTORY APPLICATION NO 3

(Application for Substitution)

And

INTERLOCUTORY APPLICATION NO. 4

(Application for Exemption from filing Official Transaltion of Death Certificate)

And

INTERLOCUTORY APPLICATION NO. 5

(Application for condonation of delay in filing substitution application)

IN

CIVIL APPEAL NO. 9590 OF 2011

State of U.P. & Ors.

.....Petitioner

-Versus-

M/s Kesar Enterprises Ltd.

.....Respondents

OFFICE REPORT

The instant matter was listed before the Hon'ble Court on 31st October, 2011 alongwith other Connected matters when the Court was pleased to pass the following order :

“Leave granted.

The appeals will be heard on the SLP Paper Books. Additional documents, if any, may be filed by the parties.”

Accordingly, notice of Lodgment of Petition of Appeal was issued to the sole respondent through the High Court of Judicature at Allahabad. High Court has sent the certificate of service stating therein that the Vice President of sole respondent Company namely Sh. H.S. Malik has already expired on 11th February, 2010.

It is submitted that Advocate for the Appellant has on 7th September, 2015 filed an Application for Substitution praying therein that the appellant may be permitted to substitute the respondent in the said Civil Appeal No. 9590 of 2011 as : “M/s Kesar Enterprises, Baheri, District Bareilly, through its authorised representative/Assistant Manager, Sri Akhilesh Mehra” in place of M/s Kesar Enterprises, Baheri, District Bareilly, through its Vice President Shri H.S. Malik” alongwith application for exemption from filing official translation of death certificate. It is also submitted that counsel for the appellant has filed an application for condonation of delay in filing application for substitution as there is delay of 1944 days in filing application for substitution and the said application for substitution was defective as counsel for the appellant had not filed Annexue A 1 of said application.

The Office Report with regard to not curing the defects in filing the application for substitution was listed before the Hon'ble Judge in Chamber on 2nd September, 2016, when His Lordship was pleased to pass the following order :

“On 15.7.2016, despite the last opportunity having been granted on an earlier occasion, further time was afforded to the learned counsel for the appellants, to cure the defects in the application for substitution. However, learned counsel for the appellants has failed to take appropriate steps.

In view of the above, one further opportunity is granted to the learned counsel for the appellants to remove the defects in the application for substitution, subject to payment of costs of Rs. 5,000/- to be paid to the Supreme Court Advocates-on-Record Welfare Trust, within one week from today. Defects in the application for substitution be removed within two weeks thereafter.”

It is submitted that Pursuant to above-said order, counsel for the appellants has cured the defects in Application for Substitution and he has also on 14th September, 2016 filed proof of payment of the cost of Rs. 5000/- as directed by the Hon'ble Court and the same is barred by time by 4 days, but the counsel has not filed the condonation of delay in depositing the cost.

It is lastly submitted that Now, Application for substitution and Application for exemption from filing official translation of death certificate and Application for Condonation of delay in filing substitution application. have been registered as I.A. Nos. 3, 4 and 5 respectively. Copies of the said applications have been placed with main Civil Appeal paper books.

The aforesaid applications in the appeal are listed before Hon'ble-Judge-in Chambers with this office report.

Dated this the 10th day of January, 2017.

ASSISTANT REGISTRAR

Copy to:-

1. Mr. Ravi Prakash Mehrotra, Advocate
100, Lawyers' Chamber

ASSISTANT REGISTRAR