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Court : Rajasthan

Decided On : Feb-26-1979

Reported in : AIR1979Raj179; 1979()WLN545

Judge : S.K. Mal Lodha, J.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 115 and 151 - Order 22

Appeal No. : Civil Revn. No. 523 of 1976

Appellant : Jamna Lal

Respondent : Legal Representatives of Khemraj Nathulal and ors.

Advocate for Def. : S.C. Bhandari, Adv.

Advocate for Pet/Ap. : Rajendra Mehta, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

S.K. Mal Lodha, J.

1. This revision application comes up for orders on the application submitted by the petitioners on Dec. 19, 1977 for substituting the legal representatives of the non-petitioner No. 1/1 Nathu-lal.

2. It is necessary to recount a few facts,

3. The plaintiffs Khemraj and Vanraj instituted a suit against the petitioners and Amarchand, who is non-petitioner No. 3 in this revision, on June 16, 1966, for permanent injunction, inter alia, on the ground that the defendants were intending to dispossess them from a 'Bara' (property in suit), described in para 1 of the plaint. According to the plaintiffs, they were owners in possession of the 'Bara.' This suit was registered as Civil Suit No. 86 of 1966. On the application of the plaintiffs, an ex parte interlocutory injunction was granted. The defendants contested the suit. The ex parte interlocutory injunction was also resisted. While the aforesaid suit was pending, the plaintiffs filed another suit for possession against the defendants on July 21, 1966 under Section 6 of the Specific Relief Act, 1963. It was stated by the plaintiffs that the defendants had dispossessed them, during the pendency of the earlier suit No. 86 of 1966. It was, therefore, prayed by the plaintiffs that they may be restored the possession of the 'Bara' in suit. This suit was registered as Civil Suit No. 95 of 1966. On Aug. 31, 1966, an application under Section 10C. P. C. for staying its proceedings was filed. The learned Munsif, Mavli, by his order dated Oct. 10, 1966, ordered the consolidation of the two suits, mentioned above. It has been stated by the petitioners that despite the order of the consolidation, separate order-sheet continues to be recorded in Civil Suit No. 95 of 1966 and the file of Suit No. 85 of 1960 was tagged with the file of the later suit. After trial, the learned Munsif, Mavli decided both the suits by his judgment dated October 11, 1976. Learned Musiff, decreed the suit of the plaintiffs for possession and ordered that the defendants should deliver possession of the property in suit within two months to the plaintiffs. Against that judgment and decree, defendants Nos. 2 to 5 have preferred this revision under Section 115 C. P. C.

4. During the pendency of the suits, one of the plaintiffs Khemraj died and his legal representatives non-petitioner No. 1/1 Nathulal, non-petitioner No. 1/2 Roshanlal and non-petitioner No. 1/3 Smt. Kanchandevi were brought on record. Smt. Kanchandevi also died and her legal representatives are 3/1 Manju Kumar, 3/2 Dinesh Kumar, 3/3 Madhu and 3/4 Devendra Kumar. During the pendency of this revision. Khemraj's legal representative, non-petitioner No. 1/1 Nathulal died on March 1, 1977. Learned counsel for the petitioners submitted an application on

Dec. 19, 1977, which was also signed by one of the petitioners Kailash-chandra, stating that non-petitioner No. 1/1 Nathulal had died on March 1, 1977, that the petitioners came to know about his death on Dec. 6, 1977 and that in order to complete the array of the parties, Nathulal's legal representatives, whose names are mentioned in para 2 of the application, may be brought on record and the cause title of the revision may be corrected. This application was supported by the affidavit of the petitioner Kailashchandra. This application was opposed by the learned counsel for the plaintiffs by filing a reply dated Sept. 18, 1978. It was stated in the reply that the application for impleading the legal representatives of deceased-non-petitioner No. 1/1 Nathulal having been filed as late as more than nine months after the death of Nathulal, may be dismissed. It was also mentioned in the reply that the revision may be dismissed as deceased Nathulal was a necessary party in the revision. In support of the reply, an affidavit of the plaintiff Van-raj dated Sept. 12, 1978 was filed, inter alia, controverting the fact that the petitioners came to know about the death of non-petitioner No. 1/1 Nathulal for the first time on Dec. 6, 1977. The petitioners submitted a reply dated Sept. 28, 1978 by way of rejoinder. This was also supported by an affidavit of one of the petitioners Kailashchandra. A supplementary affidavit of the non-petitioner No. 2 Van-raj dated Nov. 5, 1978, was submitted on Nov. 20, 1978. It may be stated here that on Aug. 2, 1978, it was ordered that the notice of the application be issued to the legal representatives of the deceased Nathulal. Nobody appeared on behalf of the legal representatives of the deceased Nathulal despite service of notice.

5. I have heard Mr. Rajendra Mehta for the petitioners and Mr. S. C. Bhandari for the non-petitioners.

6. Mr. Rajendra Mehta, vehemently argued that the provisions of Order XXII, C. P. C. do not apply to revision applications and that the application for substitution of the heirs/legal representatives in revision is an application under Section 151 C. P. C. and the period of limitation for bringing the heirs/legal representatives of deceased opposite party in revision is three years, under Article 137 of the Limitation Act, 1963 (for short 'the Act' hereafter). He therefore, contended that as non-petitioner No. 1/1 died on March 1, 1977 and the application for the

substitution of the legal representatives having been made on Dec. 19, 1977 is within limitation as three years time had not expired after the death of Nathulal. Mr. Rajendra Mehta placed strong reliance on *Kazim Husain v. Pearey Lal* AIR 1939 Oudh 277. *Union of India v. Seth Shanti Sarup* AIR 1966 All 530. *Girish Chandra v. Radhey Shyam* ILR (1970) 20 Raj 493, *Chandradeo Pandey v. Sukhdeo* AIR 1972 All 504 (FB) and *Dulasingh v. Union of India* ILR (1973) 1 Punj 491.

7. Mr. Bhandari, learned counsel for the plaintiffs-non-petitioners did not dispute that Order XXII, C. P. C. is not applicable to the application for impleading legal representatives in revision but he, however, contended that the petitioners have submitted the application for impleading the legal representatives of the deceased Nathulal with inordinate delay and as such they are guilty of negligence and revision being discretionary remedy, discretion should not be exercised in favour of the petitioners. He further submitted that there was no sufficient cause for not making the application within reasonable time and that the delay has not been satisfactorily explained. He invited my attention to *Khuda Bux Khan v. Maha Nand*, AIR 1948 Oudh 84, *Kanhiyalal v. Mangalsingh* AIR 1953 Raj 69, *Babulal v. Mannilal*, AIR 1953 Raj 169 (FB) and *Union of India v. Ganga Dutt* AIR 1971 Delhi 65. He also argued that S. 151 C. P. C. does not provide for any application and as such Article 137 of the Act is not attracted. He urged that inherent powers of the Court under Section 151 C. P. C. are also discretionary and they have to be exercised judicially having regard to the facts and circumstances of a particular case. According to the learned counsel, a litigant applying for revision or for bringing legal representatives on record in a revision petition is expected to be vigilant with the prosecution of his case and what is reasonable time is a question of fact to be determined by the court in each case. The right to commence proceedings or continue them may be there in a party but if that right is exercised in a manner which clearly spells out laches the Court would be reluctant to exercise discretion in favour of such a party.

8. It is well settled that Order XXII, C. P. C. does not apply to revision applications. A Division Bench of this Court has followed the view taken in *Khuda Bux Khan's* case in *Kanhiyalal's* case. The decision in *Kanhiyalal's* case was approved by the Full Bench of this Court in *Babulal's* case. In *Union of India's* case, a Division

Bench of Delhi High Court also held that Order XXII, C. P. C. does not apply to revision applications.

8A. Section 151 C. P. C. reads as under:--

'Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice, or to prevent abuse of the process of the Court.'

Under this section, inherent powers of the Court can be invoked. It applies only to the exercise of jurisdiction where once the matter is properly before the Court and does not confer jurisdiction to entertain a proceeding but only saves the inherent jurisdiction. Inherent powers of the Court are generally invoked by moving an application. It follows, therefore, that an application for invoking the powers under Section 151 C. P. C. amongst others, may be made for the ends of justice. The inherent powers saved by the section are to be used only to secure the ends of justice or to prevent abuse of the process of the Court. The power is discretionary and in considering the question of propriety in invoking the power the Court would take into account several matters e. g., whether the party has been diligent and not guilty of negligence or laches. In Union of India's case, it was observed as under;--

'If the law of limitation does not prescribe a period then Courts entertain proceedings on principles of equity and refuse to exercise discretion in favour of those who are not diligent. The mere existence of a right to move a Court does not automatically invest a party with the right to get a cause decided in its favour if the circumstances of the case show that the party has been negligent.'

The learned Judges of the Oudh Chief Court in Khuda Bux Khan's case observed as under:--

'If after the admission of a revision application one of the parties dies and an application to bring his legal representatives on record is not presented within a reasonable time, the revision application will abate, in the sense that the proceedings shall cease unless good cause is shown for the delay. The legal

representatives of the deceased party are not entitled to have their names brought on the record as a matter of right if the application asking for it is unduly delayed.'

This Court in Kanhiyalal's case observed as under:--

'A litigant applying for revision is expected to be diligent with the prosecution of his case. He should, therefore, come to the Court within reasonable time in order that he may get a remedy which is discretionary and which he is not entitled to claim as a matter of right. What is a reasonable time is a question of fact and it would depend on the facts of each case. No hard and fast rule can be laid down as regards the degree of diligence to be required in such cases.' (underlining is mine)

In that case, the application for substitution was dismissed on the ground that delay was inordinate and the petitioner, in that case, was guilty of negligence. A Full Bench of this Court adopted the view taken by the Division Bench and in Babulal's case it was held that the petitioner, in that case, was guilty of negligence and the discretionary powers were not exercised in his favour as he was himself to blame for negligence.

9. In the light of the aforesaid principles, it is to be determined whether the petitioners have submitted the application for substitution of the legal representatives of non-petitioner No. 1/1 Nathulal within reasonable time or not. In the application dated Dec. 19, 1977, it was stated that non-petitioner No. 1/1 Nathulal died on March 1, 1977 and that the petitioners came to know about his death on Dec. 6, 1977. The application was presented after more than nine months. A perusal of para 4 of the affidavit of non-petitioner No. 2 Vanraj dated Sept. 12, 1978 shows that non-petitioners Nos. 1/1, 1/2 and 2 instituted a suit against the petitioners which was registered as Civil Original Suit No, 67 of 1969. An application for substitution of the legal representatives of the deceased Nathulal was submitted on March 25, 1977 and a copy of that application was supplied to the petitioners (defendants in that suit) on the same day. April 27, 1977 was fixed for their reply. The trial court, in that suit, by its order dated Oct. 13, 1977, ordered for bringing the legal representatives of Nathulal on record, as defendants in that suit, had no objection to it. In view of these averments, it is clear that the petitioners came to know about Nathulal's death, in any case, on March

25, 1977. In the reply dated Sept. 28, 1978, by way of rejoinder to the reply to the application for substitution, the petitioners stated that the copy of the application for substitution in suit No. 67 of 1969 was not given to them but the same was delivered to Shri Jaswantlal Mehta, Advocate and the said advocate never informed about that application. Affidavit of Shri Jaswantlal Mehta, Advocate, has not been filed. The present application for substitution, as stated above, was signed by the petitioner Kailashchandra and he alone gave the affidavit in support of the reply. It has not been disputed by the learned counsel for the petitioners that the suit, out of which the revision had arisen, was contested by petitioners Nos. 1, 2 and 4 and that Kailashchandra did not even file the written statement in the suit. It has further not been disputed that the ex parte order in the suit was passed against Kailashchandra on Dec. 6, 1966. The application for impleading the legal representatives of deceased Nathulal was filed on behalf of the petitioners. It is not the case of the petitioners that none of them had acquired knowledge of the death of Nathulal prior to Dec. 6, 1977. In these circumstances, the averments made by Kailashchandra in the application that he came to know about the death of Nathulal on Dec. 6, 1977 is not of any consequence. According to non-petitioner No. 2 Vanraj, the petitioners reside at Mavli in a house which is situated at a distance of about 50 yards from the house of non-petitioners Nos. 1/1, 1/2 and 2, whereas according to the petitioners, petitioners Nos. 1 to 4 reside at Mavli at about 200 yards away from the houses of non-petitioners Nos. 1/1, 1/2 and 2 and petitioner No. 2 resides at Mavli at a distance of about one mile from the house of the non-petitioners. In these circumstances, I find it difficult to believe that the petitioners did not come to know about the death of non-petitioner No. 1/1 Nathulal prior to Dec. 6, 1977. The petitioner Kailashchandra did not file the written statement in the case and ex parte orders were passed against him on Dec. 6, 1966, and therefore, it is not believable when the petitioners asserted that Kailashchandra alone was looking after the matter in this Court and also before the trial court. The application for substitution filed on Dec. 19, 1977 was not within reasonable time which is generally 90 days and there is no satisfactory explanation for the inordinate delay of more than nine months. Having regard to all the facts and circumstances stated above, I am firmly of the opinion that the petitioners are guilty of negligence and they were not diligent. There is no satisfactory explanation

as to why the petitioners filed the application for substitution of the legal representatives on Dec. 19, 1977. As stated above, to invoke inherent power, is discretionary.

10. The Full Bench of this Court in Babulal's case held that revision is a discretionary remedy and unless a party is diligent, the High Court would not exercise its discretionary power in its favour.

10A. In the view of the facts and circumstances, that I have adverted to above. I am of opinion that the discretionary powers should not be exercised in their favour.

11. Mr. Rajendra Mehta, learned counsel for the petitioners contended that for making an application under Section 151 C. P. C., period of limitation is three years under Article 137 of the Limitation Act, 1963.

12. Article 137 of the Act reads as under:

Description of Suit.

period of limitation

Time from which period begins to run.

Any other application for which no period of limitation is provided elsewhere in this revision.

Three years

When the right to apply accrues.

According to the learned counsel, an application for substitution of the legal representatives of deceased Nathulal could be made within three years from the date of the death of Nathulal. At the risk of repetition it may be stated here that Nathulal died on March 1, 1977 and the application was made on Dec. 19, 1977 and as such it is clearly within three years. Learned counsel submitted that the petitioners are not required to show any reason as the application was within three years. Mr. Bhandari submitted that the question of limitation does not arise in this

case inasmuch as Section 151 does not provide for making any application and that a period of limitation merely restricts the right of a party for remedy and further that it does not help a party to succeed. So far as applications under Order XXII, Rules 3 and 4 C. P. C. for substitution of legal representatives of plaintiff or defendant/appellant or respondent, are concerned, the Court has no choice if such application for substitution of the legal representatives are made within the prescribed time. According to Mr. Bhandari, there is no obligatory provision for accepting the application for impleading legal representatives of a deceased party in revision. He does not dispute the correctness of the proposition that other applications which are not covered by the Schedule appended to the Limitation Act, are governed by Article 137 of the Act.

13. In *Kerala S.E. Board v. T. P. Kunhaliumma*, AIR 1977 SC 282 it was held that Article 137 applies to any petition or application filed under any Act. The Allahabad High Court in *Chandradeo's case*, after considering *Union of India's case* and overruling *Khuda Bux Khan's case* held that the application for substitution of heirs in a revision is an application under Section 151 Civil P. C. and hence the period of limitation for bringing the heirs of deceased opposite-party in revision is three years under Article 137 of the Act. The Division Bench of this Court in *Kanhiyalal's case* has followed *Khuda Bux Khan's case* and the Full Bench in *Babulal's case* has approved and adopted the view taken by the Division Bench in *Kanhiyalal's case*.

14. Section 151 C. P. C. does not provide making any application. It only saves the inherent powers of Court. There is no specific provision for making an application for substitution of legal representatives in revision. If the contention of the learned counsel for the petitioners that period for moving an application for impleading the legal representatives in revision is three years, is accepted, then, the revision will have to be kept pending for a period of three years from the date of the death of the deceased party. Inherent power of a court cannot be exercised in favour of a party who is guilty of gross neglect and laches and not acting with diligence.

15. The view taken in Chandradeo Pandey's case is not in conformity with the view taken by the Full Bench of this Court in Babulal's case. For this reason also, the view taken in Dulasingh's case that Article 137 of the Act applies where Order XXII, C. P. C. has no application, cannot be accepted. A Division Bench of the Kerala High Court in C. Abdulla v. E. I. Damodaran, AIR 1972 Ker 116, after considering the decision in Pillayathiri Amma v. Lakshmi Amma AIR 1967 Ker 135, has laid down that the Court has inherent powers under Section 151 C. P. C. read with Order XXII thereto to implead the legal representatives so as to do justice between the parties. Kasim Husain's case was not approved in Khuda Bux Khan's case and Khuda Bux Khan's case was followed in Kanhiyalal's case. I respectfully dissent from the view taken in Chandradeo Pandey's case when it was held that the application for impleading legal representatives in a revision under Section 151 C. P. C. can be made within three years under Article 137 of the Act. It is the duty of a party to apply for substitution of legal representatives of a deceased party in revision within a reasonable time and without any delay as it is not in the ends of justice to assist a party guilty of laches. The decision in Girish Chandra's case does not categorically lay down that there is a period of three years prescribed under Article 137 (Art. 181 old) of the Act for making an application under Section 151 C.P.C. The learned Judge has merely quoted from the AIR Commentary on the Limitation Act, 1963 that an application under Section 151 invoking the inherent powers of the Court, has generally been held to be governed by this Article. There is divergence of opinion on the point as in some of the cases the view taken is that where Courts act under Section 151 C, P. C, whether suo motu or on application, limitation will not be taken into consideration. I am, therefore, of the opinion that it will depend upon the facts and circumstances of each case whether to allow substitution or not when an application for impleading the legal representatives of a deceased party in revision is made keeping in view whether such application has been made within reasonable time (90 days) from the date of the death of a party and if it is made beyond 90 days, whether delay has been satisfactorily explained. In this case, as stated by me above, the petitioners were not diligent and as they were guilty of negligence, I declined to exercise the discretionary power under Section 151 C. P. C for impleading the legal representatives of the deceased Nathulal. In these circumstances, the application

for impleading the legal representatives of non-petitioner No. 1/1 Nathulal dated Dec. 19, 1977 is dismissed.

16. Learned counsel, on the basis of decision reported in Muthuramman v. Adaikappa, AIR 1936 Mad 336 contended that it is not necessary for him to bring the legal representatives of deceased Nathulal on record as Nathulal himself was one of the legal representatives of one of the plaintiffs, Khemraj. I have carefully gone through the above decision of Madras High Court. It is distinguishable. It was held in that case that a decree obtained after the death of a defendant cannot bind his legal representatives unless they had been made parties to the suit and that there is a difference between cases in which the original party to the action dies and his legal representative is not brought on the record and cases in which only one of several representatives brought in as such during the pendency of an action dies, and the estate continues to be represented by the remaining legal representatives; in the second group there is no lack of representation of the estate as the remaining representatives can as well represent the estate as the original group did. It was observed as under:

'Hence where on the death of a defendant his two sons are brought on record as his representatives, but one of them dies and this is not known to the plaintiff who continues the suit and the subsequent proceedings bona fide with the two sons on record and the other son contests all proceedings, the subsequent proceedings taken are not null and void.'

In this case, one of the plaintiffs was Khemraj. He died and his legal representatives were brought on record in the trial court. A decree for possession was jointly passed in favour of the other plaintiff as well as the legal representatives of Khemraj inclusive of non-petitioner No. 1 Nathulal. Against this joint decree for possession, petitioners have filed the revision. In these circumstances the decision in Muthuramman's case is not of any help to the learned counsel for the petitioners.

17. Mr. Bhandari contended that a joint and indivisible decree was passed by the trial court in favour of Nathulal and as his legal representatives have not been brought on record, it is not possible for this Court to proceed further with the

revision, and, therefore, it should be dismissed. In support of his argument, he placed reliance on *Jawarimal v. Mangilal*, ILR (1961) 11 Rai 793, *State of Punjab v. Nathu Ram*, AIR 1962 SC 89, *Rameshwar Prasad v. Shambahari Lal*, AIR 1963 SC 1901, *Sri Chand v. Jagdish Pershad*, AIR 1966 SC 1427, *R. P. Gupta v. Murli Prasad*, AIR 1972 SC 1181 and *Teju v. Board of Revenue*, AIR 1978 Raj 16, In *State of Punjab's* case it was observed as under:

'The test to determine this has been described in diverse forms. Courts will not proceed with an appeal (a) when the success of the appeal may lead to the Court's coming to a decision which be in conflict with the decision between the appellant and the deceased respondent and therefore which would lead to the Court's passing a decree which will be contradictory to the decree which had become final with respect to the same subject-matter between the appellant and the deceased respondent; (b) when the appellant could not have brought the action for the necessary relief against those respondents alone who are still before the Court and (c) when the decree against the surviving respondents, if the appeal succeeds, be ineffective, that is to say, it could not be successfully executed.

In para 8, their Lordships of the Supreme Court have observed as under;

'..... Here again, the consensus of opinion is that if the decree is joint and indivisible, the appeal against the other respondents also will not be proceeded with and will have to be dismissed as a result of the abatement of the appeal against the deceased respondent. Different views exist in the case of joint decrees in favour of respondents whose rights in the subject-matter of the decree are specified. One view is that in such cases, the abatement of the appeal against the deceased respondent will have the result of making the decree affecting his specific interest to be final and that the decree against the other respondents can be suitably dealt with by the appellate Court. We do not consider this view correct. The specification of shares or of interest of the deceased respondent does not affect the nature of the decree and the capacity of the joint decree-holder to execute the entire decree or to resist the attempt of the other party to interfere with the joint right decreed in his favour. The abatement of an appeal means not only that the decree between the appellant and the deceased respondent has become

final, but also, as a necessary corollary, that the appellate Court cannot in any way, modify that decree directly or indirectly. The reason is plain. It is that in the absence of the legal representatives of the deceased respondent the appellate Court cannot determine anything between the appellant and the legal representatives which may affect the rights of the legal representatives under the decree. It is immaterial that the modification which the Court will do is one to which exception can or cannot be taken.'

The view taken in State of Punjab's case was followed in Rameshwar Prashad's case. Both the aforesaid decisions of the Supreme Court were again followed in Sri Chand's case. State of Punjab's case, Rameshwar Prashad's case and Sri Chand's case were also noticed in R. P. Gupta's case. It was observed in that case that the three tests laid down in State of Punjab's case are not cumulative tests and even if one of them is satisfied, the court may dismiss the appeal. A learned single Judge of this Court in Jawari Mal's case took the view that where the hearing on merits of an appeal which has abated as far as one of the appellants (deceased) is concerned, may result in two inconsistent decrees, the abatement cannot be allowed to be limited to the deceased appellant alone, but must result in the abatement of the appeal in its entirety. A Division Bench of this Court in Teju's case in a writ petition, has considered State of Punjab's case and Srichand's case. It was observed as under:

'But the difficulty in the way of the defendant petitioners is that there has been an adjudication and a decree has been passed by the Revenue Appellate Authority which has held the plaintiff to be entitled to be restored possession of the land from all the defendants jointly. The decree is thus joint and indivisible one against all the defendants and not against each one of the defendants separately. In that view, as the decree was a joint and indivisible one, the death of some of the defendant-appellants would result not only in the appeal having abated with regard to the deceased appellant but will have the inevitable consequences that the appeal by the other appellants could not be proceeded with.'

A joint decree for possession was passed in favour of the plaintiffs inclusive of non-petitioner No. 1/1 Nathulal. As his legal representatives have not been

brought on record, it is not possible to decide the revision in absence of the legal representatives of the deceased Nathulal and without producing two inconsistent decrees in the same litigation, and such a situation is not permissible in law,

18. Mr. Mehta placed reliance on Rly. Workshop Jhansi v. Vishwanath. In that case, there was a joint petition under the Payment of Wages Act, 1936 by respondents. An order was made in favour of the petitioners by one judgment. There was an appeal to the Supreme Court. All the respondents were made parties, but one of them died during the pendency of the appeal. As his name continued to appear in array of respondents, legal representatives were not brought on record. It was held that appeal did not abate. There is a distinction when an order is passed on a joint-petition and a joint-decree. The principles for substitution of legal representatives in case of joint petition are not applicable to a case of joint decree. In these circumstances, Rly. Workshop's case cannot be availed of by the learned counsel for the petitioners.

19. In the absence of the legal representatives of deceased Nathulal, the joint decree for possession cannot, in any way, be modified directly or indirectly. As non-petitioner No. 1/1 Nathulal has died during the pendency of revision, and his legal representatives were not brought on record within a reasonable time, the revision application has abated against Nathulal. It is not possible for this Court to deal with the matter involved in this revision in the absence of the legal representatives of Nathulal. In these circumstances. I decline to proceed with the revision. There is no alternative but to dismiss it.

20. The revision application is, therefore, dismissed. In the circumstances of the case, there will be no order as to costs of this revision.