

—:: कार्यालय प्रधान जिला एवं सत्र न्यायाधीश, उज्जैन (म.प्र.) ::—

पृष्ठा.क्र० १३४५ / एक-६-२/११

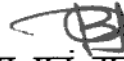
उज्जैन, दिनांक सितम्बर २०२६

प्रतिलिपि :-

29 OCT 2026

1. (समस्त न्यायाधीशगण, जिला उज्जैन)
की ओर माननीय उच्च न्यायालय मध्यप्रदेश, जबलपुर का ज्ञापन क्रं. ए/३५४५ दिनांक २९.०९.२०२६ मय Civil Appeal No. ९८०७ of २०२६ @ Special Leave Petition (C) No. २८४५४ of २०२४) in the case of "Bishen Prasad Tiwari Vs. Sheela Devi" में माननीय उच्चतम न्यायालय द्वारा पारित आदेश दिनांक १७.०७.२०२६ की प्रति सहित सूचनार्थ, पालनार्थ एवं आवश्यक कार्यवाही हेतु संलग्न प्रेषित।
2. श्री सुशील कुमार जोशी, प्रथम जिला एवं अपर सत्र न्यायाधीश उज्जैन
3. जूनियर सिस्टम एनॉलिस्ट जिला न्यायालय उज्जैन की ओर उक्तानुसार ज्ञापन की प्रति मय सहपत्रों के सूचनार्थ एवं इस टीप के साथ प्रेषित कि वे समस्त न्यायाधीशगण के ई-मेल पर प्रेषित करें।

संलग्न : उपरोक्तानुसार


प्रधान जिला एवं सत्र न्यायाधीश,
उज्जैन (म.प्र.)

HIGH COURT OF MADHYA PRADESH: JABALPUR

No. ^{A/3545/II} 3-10/29 Part -5 Jabalpur, dated 29/09/2026

To,

The Principal District and Sessions Judge(s),
All in the State (M.P.)

Subject:- Compliance of directions of Honourable the Supreme Court of India in Reportable Order dated 17.07.2026 in Civil Appeal No. 9807 of 2026 (@ Special Leave Petition (C) No. 28454 of 2024) in the case of "Bishen Prasad Tiwari Vs. Sheela Devi."

Sir/Madam,

Please find enclosed herewith a copy of the Reportable Order passed by Honourable the Supreme Court of India dated 17.07.2026 in **Civil Appeal No. 9807 of 2026 (@ Special Leave Petition (C) No. 28454 of 2024)** in the case of "Bishen Prasad Tiwari Vs. Sheela Devi."

As directed, I request you to bring the same into the knowledge of all the Judicial Officers under your kind control for information, compliance and necessary action.

Encl:- As above.

[Signature]
29/09/26

MUKESH RAWAT

REGISTRAR District Establishment

Encl. No. ^{A/3546} 3-10/29 Part -5 Jabalpur, dated 29/09/2026

Copy forwarded to:-

The Principal Registrar (J), Registrar (J-II), Registrar (I & L) and Director, Madhya Pradesh State Judicial Academy, Jabalpur for information and appropriate action.

[Signature]
29/09/26

MUKESH RAWAT

REGISTRAR District Establishment

S.W.
28.09.26
[Signature]

29 SEP 2026

10742

SCANNED

All Communications Should be
Addressed to Registrar by
Designation and not by Name.
Pin Code - 110001

Delivery Mode: Speed Post
D. No. 54967/2024 SEC- XVI
SUPREME COURT OF INDIA
NEW DELHI
03rd August, 2026

From:
The Assistant Registrar,
Supreme Court of India, New Delhi.

To,

1 THE REGISTRAR,
HIGH COURT OF CAL CUITA,
District- KOLKATA, WEST BENGAL

2 THE REGISTRAR,
HIGH COURT OF JUDICATURE AT PATNA,
District- PATNA, BIHAR

3 THE REGISTRAR,
HIGH COURT OF ALLAHABAD,
District- PRAYAGRAJ, UTTAR PRADESH

4 THE REGISTRAR,
HIGH COURT OF ANDHRA PRADESH,
District- Amaravati, ANDHRA PRADESH

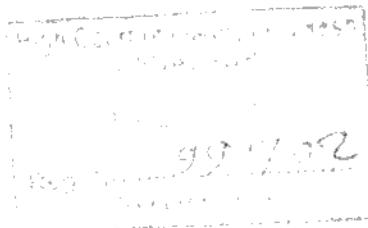
5 THE REGISTRAR,
HIGH COURT OF BOMBAY,
District- MUMBAI, MAHARASHTRA

6 THE REGISTRAR,
HIGH COURT OF CHATTISGARH,
District- BILASPUR, CHHATTISGARH

7 THE REGISTRAR,
HIGH COURT OF DELHI,
District- CENTRAL, DELHI

8 THE REGISTRAR,
HIGH COURT OF GAUHATI,
District- GUWAHATI, ASSAM

9 THE REGISTRAR,



HIGH COURT OF GUJARAT,
District- AHMEDABAD , Gujarat

90 THE REGISTRAR,
HIGH COURT OF HIMACHAL PRADESH,
District- SHIMLA, HIMACHAL PRADESH

THE REGISTRAR,
HIGH COURT OF JAMMU AND KASHMIR
11 AND LADAKH,
District- SRINAGAR, JAMMU & KASHMIR

THE REGISTRAR,
12 HIGH COURT OF JHARKHAND,
District- RANCHI, JHARKHAND

THE REGISTRAR,
13 HIGH COURT OF KARNATAKA,
District- BANGALORE, KARNATAKA

THE REGISTRAR,
14 HIGH COURT OF KERALA,
District- kochi, KERALA

THE REGISTRAR,
15 HIGH COURT OF MADHYA PRĀDESH,
District- JABALPUR, MADHYA PRADESH

THE REGISTRAR,
16 HIGH COURT OF MADRAS,
District- CHENNAI, TAMIL NADU

THE REGISTRAR,
17 HIGH COURT OF MANIPUR,
District- IMPHAL, MANIPUR

THE REGISTRAR,
18 HIGH COURT OF MEGHALAYA,
District- SHILLONG, MEGHALAYA

19 THE REGISTRAR,

HIGH COURT OF ORISSA,
District- CUTTACK, ORISSA

20 THE REGISTRAR,
HIGH COURT OF PUNJAB AND HARYANA,
District- CHANDIGARH, CHANDIGARH

21 THE REGISTRAR,
HIGH COURT OF RAJASTHAN,
District- JODHPUR, RAJASTHAN

22 THE REGISTRAR,
HIGH COURT OF SIKKIM,
District- gangtok, SIKKIM

23 THE REGISTRAR ,
HIGH COURT OF TELANGANA,
District- HYDERABAD, TELANGANA

24 THE REGISTRAR,
HIGH COURT OF TRIPURA,
District- Agartala, TRIPURA

25 THE REGISTRAR,
HIGH COURT OF UTTARAKHAND,
District- NAINITAL, UTTARAKHAND

26 THE REGISTRAR ,
HIGH COURT OF CALCUTTA CIRCUIT BENCH
AT PORT BLAIR,
ANDAMAN & NICOBAR ISLANDS

27 THE REGISTRAR,
HIGH COURT OF DADRA AND NAGAR HAVELI,
District- MUMBAI, MAHARASHTRA

28 THE REGISTRAR,
HIGH COURT OF DAMAN AND DIU,
District- MUMBAI, MAHARASHTRA

29 THE REGISTRAR,

HIGH COURT OF LAKSHADWEEP ISLAND,
District- Kochi KERALA

THE REGISTRAR,
HIGH COURT OF PONDICHERRY,
District- Madras, TAMIL NADU

CIVIL APPEAL No (s) 9807 OF 2026

(Petition under Article 135 of the Constitution of India from the judgement and Order dated 13.11.2024 of the High Court at Calcutta Circuit Bench at Port Blair, WEST BENGAL in C.O No. 42 of 2024)

BISHEN PRASAD TIWARI

... Petitioner(s)-Appellant(s)

VERSUS

SHIELA DEVI

... Respondent(s)

Sir,

I am directed to inform you that Civil Appeal(s) above mentioned has been disposed of by this Honble Court in terms of Reportable ^{order} Judgment dated 17th July, 2026. I am further directed to forward herewith under Rule 5 of Order XII of the Supreme Court Rules, 2013, a Certified Copy of the Reportable ^{order} Judgment of this Court dated 17th July, 2026 in the appeal(s) above mentioned. Certified Copy of the Decree in the aforesaid matters will be sent in due course, if any.

Yours faithfully,


ASSISTANT REGISTRAR

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No. 9867 of 2026
(@Special Leave Petition (C) No.28454 of 2024)

Bishen Prasad Tiwari

...Appellant

Versus

Sheela Devi

26100125
...Respondent

ORDER

1. Leave granted.
2. Procedure, as is true, is the handmaiden of justice, but in law, it cannot be treated as a lowly servant and ignored altogether; especially if substantial rights are involved, since it makes justice delivery even handed.
3. Shorn of the facts, a delay of 501 days occurred in filing the application for setting aside abatement and impleading the legal representatives (LRs), to substitute the deceased first appellant in an appeal. The Appellate Court found by Annexure P10 order that Rule 9(3) of Order XXII of the Code of Civil Procedure, 1908 (CPC) clearly makes applicable Section 5 of the Limitation Act to applications under Rule 9(2). Hence, any person seeking relief

of condonation of delay ought to file a petition under Section 5 of the Limitation Act along with an application to set aside abatement. No such application was filed and the grounds stated for the delay of 501 days as discernible from the application for setting aside abatement, produced as Annexure P7, was that the Advocate who was engaged was pre-occupied with personal work. The absence of an application for condonation of delay coupled with the vague grounds stated, resulted in the rejection of the application.

4. The High Court in the impugned order relying on *Mithailal Dalsangar Singh & Ors. v. Annabai Devram Kini & Ors.*¹ found that Courts of law should not be hyper technical and held the dictum of the cited decision: of liberally construing setting aside of an abatement, equally applying to the present case. The liberal construction applies *mutatis mutandis* while considering the setting aside of abatement and impleading the IIRs, without an application for condonation of delay, especially when the application set out the grounds for delay, held the impugned order; to which we cannot concur. The High Court

found that the reason stated of the delay caused by the Advocate should not prejudice the litigant. A cost of Rs.25,000/- was ordered to be paid to the opposite party and the appeal was directed to be considered after setting aside the abatement and making necessary corrections in the cause title of the appeal, on the above terms

5. In *Mithailal Dalsangar Singh*¹ a suit for specific performance filed by three plaintiffs was dismissed as abated on the death of one of the plaintiffs, the other plaintiffs having not impleaded the LRs of the deceased. With considerable delay the LRs filed an application to implead themselves and condone the delay in approaching the Court. The defendants contented that the cause of action arising to the plaintiffs was only one and on failure to implead the LRs within the time provided, there could be no restoration of the suit without the other plaintiffs also praying for setting aside the abatement. It was held that if the application filed, prayed for a simpliciter substitution of the LRs of the deceased, without praying for an order to set aside abatement, in substance the prayer made can be construed as one, also to set aside abatement. Similarly a prayer for setting

aside abatement by the loss of one of the plaintiffs can be construed as a prayer for setting aside the abatement in its entirety: the benefit inuring to the other plaintiffs too.

6. We heard Sri Mahabir, learned counsel appearing for the appellant and Ms. Soumya Chakraborti, learned Senior Counsel appearing for the respondent.

7. We are surprised that the impugned order casually dealt with the matter especially when substantive rights were involved. The delay caused in praying for setting aside abatement and impleadment of LR's, which also extended to 501 days, within which time the parties would have acted in pursuance of the judgment and decree, especially when a second appeal filed by the other defendant was dismissed by the High Court. The order dismissing that second appeal was taken note of in the impugned judgment and the same held *non est* thus giving a fresh lease of life to the first appeal in its entirety. We have to immediately notice that the appellant herein does not challenge the said direction since only one LR of defendant No. 1 is made a party herein, the other LR having died

in the meanwhile, survived only by the LR shown as the sole respondent in this appeal.

8. The chronology of events to be noticed are that the suit was decreed by the Civil Judge (Senior Division), South Andaman District, Port Blair on 18.09.2014 and a Title Appeal No.19/2014 was filed before the District Court, Andaman and Nicobar Island, Port Blair, which affirmed the judgment and decree of the Civil Court on 10.09.2015. The first defendant who was the first appellant died on 08.04.2015, prior to even commencement of the arguments in the appeal on 13.07.2015 and conclusion of hearing on 15.07.2015. A second appeal filed by one of the defendants was dismissed on 19.11.2015 as is seen from Annexure P4. Later, a second appeal was filed by the LRs of the first appellant in which the LRs of the first defendant were directed to file a necessary application under Order XXII Rule 9 of the CPC.

9. *Mithailal Dalsangar Singh*¹, held that the application for substitution, if in substance can be construed as a prayer for setting aside the abatement and the abatement is set aside against one of the plaintiffs, then the abatement in its entirety

11. In this context, we rely on *Balwant Singh (Dead) v. Jagdish Singh and Ors.*², which considered the issue with respect to condonation of delay for setting aside an abatement. It was held that the term "sufficient cause" though has to receive liberal construction, it must squarely fall within the concept of reasonable time and proper conduct of the concerned party. It was held so in paragraph 26:

"26. The law of limitation is a substantive law and has definite consequences on the right and obligation of a party to arise. These principles should be adhered to and applied appropriately depending on the facts and circumstances of a given case. Once a valuable right has accrued in favour of one party as a result of the failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or inaction of that party. Justice must be done to both parties equally. Then, alone the ends of justice can be achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law as a result of its acting vigilantly."

12. *Balwant Singh*², in fact found the application filed to be lacking in details to hold that '*liberal construction cannot be equated with doing injustice to the other party*' (para 27). The very liberal approach canvassed with respect to Order XXII Rule 9 of the CPC read with Section 5 of the Limitation Act, irrespective of the period of delay, it was held, amounts to rendering all the provisions redundant and inoperative. '*Sufficient cause*' according to the learned Judges presupposes absence of negligence or inaction on the part of the applicant and implies legal and adequate reasons. The test was held to be whether the delay could have been avoided by the party with exercise of due care and attention; reiterating the trite principle that law favours the diligent and not the indolent.

13. *Union of India v. Ram Charan (Deceased) Through His Legal Representatives*³, also held so :

"8. There is no question of construing the expression "sufficient cause" liberally either because the party in default is the Government or because the question arises in connection with the impleading of the legal representatives of the deceased respondent. The provisions of the Code are with a view to advance the cause of justice. Of course, the court, in considering whether the

² AIR 1984 S. 211

appellant has established sufficient cause for his not continuing the suit in time or for not applying for the setting aside of the abatement within time. need not be over-strict in expecting such proof of the suggested cause as it would accept for holding certain fact established, both because the question does not relate to the merits of the dispute between the parties and because if the abatement is set aside, the merits of the dispute can be determined while, if the abatement is not set aside, the appellant is deprived of his proving his claim on account of his culpable negligence or lack of vigilance. This, however, does not mean that the court should readily accept whatever the appellant alleges to explain away his default. It has to scrutinize it and would be fully justified in considering the merits of the evidence led to establish the cause for the appellant's default in applying within time for the impleading of the legal representatives of the deceased or for setting aside the abatement."

14. Section 5 of the Limitation Act cannot be applied in a vacuum especially when the provision specifically provides for sufficient cause to condone the delay in approaching the Court, to the satisfaction of the Court. In the context of Order XXII, we have to reiterate that though the LRs, as a matter of right could seek impleadment and substitution in place of the deceased litigant within 90 days of the death, by an application made to that end, when it is beyond 90 days, but within 60 days, the

applicant has to prove that there was sufficient cause for not approaching the Court within the initial 90 days. Similarly when a further delay is occasioned, where Section 5 of the Limitation Act is invoked, there should necessarily be a separate application filed accompanying an affidavit showing sufficient reasons for condoning the delay, to the satisfaction of the Court.

15. In the present case, the application for impleading and setting aside abatement were filed as per Annexure P6 & P7 with accompanying affidavits. In Annexure P7, there was a cryptic reason stated of the Advocate engaged having been pre-occupied. There is no prayer made for condonation of delay, either in the application or the affidavit accompanying the said application; which in any event has to be made through a separate application. We hence find the Appellate Court to have rightly rejected the application on the ground of absence of an application for condonation of delay.

16. That having been said, we have to notice the various dates once more to find out whether there is just cause to implead the LRs, despite the delay occasioned. The applications filed as Annexure P6 & P7 indicates that the applicants were the

daughters of the first defendant, who due to the strained relationship with the first defendant, was not aware of the suit or the appeal filed. Only when a notice dated 15.10.2015 was received from the Tehsildar, Pata Blair, the applicants for the first time came to know about the suit, the judgment and decree passed and the rejection of the appeal. The second appeal was filed in 2015 itself as is discernible from the number assigned of that year, as evident from Annexure P5. The second appeal stood disposed of on 13.06.2016 directing the appellants to approach the Appellate Court. Annexure P6 & P7 indicates that they approached the Appellate Court on 23.08.2016 within two months and ten days of the disposal of the second appeal. Hence, the knowledge of the parties far later to the disposal of the first appeal, in the year 2015 having not been controverted by the plaintiff/respondent, we find absolutely no reason to upset the directions in the impugned order.

17. In the totality of the circumstances, we do not find any reason to interfere with the operative portion of the impugned judgment directing the LRs to be impleaded and substituted in place of the deceased 1st appellant, while not agreeing with the

reasoning in the impugned judgment. On the reasoning supplied by us we uphold the directions, leading to restoration of appeal, impleadment of the LRs of the deceased first appellant and consideration of the appeal on merits, on terms of payment of Rs.25,000/- as cost.

18. The appeal stands disposed of on the above terms.

19. Pending application(s), if any, shall also stand disposed of.

20. Registry shall forward one copy each of this order to all the High Courts.

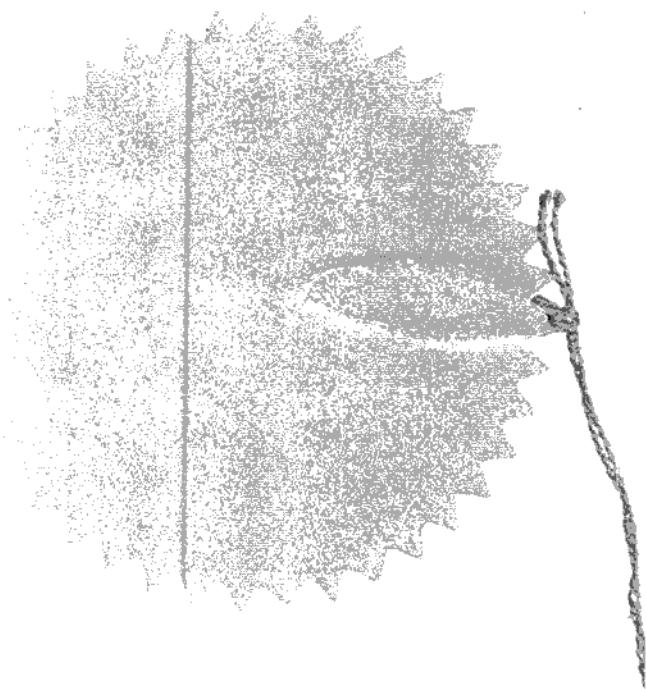
Sd

..... J.
(J.B. PARDIWALA)

Sd

..... J.
(K. VINOD CHANDRAN)

NEW DELHI
JULY 17, 2026.



SEALED IN MY PRESENCE

