

आदेश का संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे में टिप्पणी, तारीख के साथ।
13/01/2022	<p style="text-align: center;">IN THE COURT OF THE COMMISSIONER, SOUTH CHHOTANAGPUR DIVISION RANCHI</p> <p style="text-align: center;">Survey Appeal No. 04/2020</p> <p style="text-align: center;">Uday Bhagat & others</p> <p style="text-align: center;">Vrs.</p> <p style="text-align: center;">Biglu Oraon & others</p> <p>The instant appeal was filed against the order of Settlement Officer Ranchi in case no. 42/2017 passed on 29/07/2019. This appeal was filed on 24/02/2020 stating that appellants have no knowledge of the order passed. After filing this appeal petitioner did not present for the hearing on 12 consecutive dates. On 06/01/2022 finally petitioner appeared but again requested for time. Finally the matter could be heard on 10/01/2022.</p> <p>The matter in brief is that the petitioner wanted to substitute the opposite parties after filing the case in the lower court. Hence the lower court held that substitution of the party was not in line with the provisions of the civil procedure court as the case was filed originally against a dead person. Opposite parties had raised serious objection on this substitution. After hearing of both the parties in the light of order passed by Supreme Court in Civil Appeal NO. 15549/2017 the lower court held that the opposite party Chola Oraon had died long before filing the petition by the petitioners; hence</p>	

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	<p>it was not proper for the petitioners to file substitution under rule 10 of the CPC. Accordingly the lower court had rejected the petition with liberty to file the fresh case with proper parties. Against this order petitioners have filed this appeal. In the said appeal petitioners have argued about their rights and have challenged the dismissal of the case by the lower court.</p> <p>Clearly petitioners should have satisfied themselves about the existence of persons before making them party in the proceeding. The lower court was correct in disallowing the substitution of a dead person as OP after 2 years of filing. No case could have been filed against a dead person to begin with. It is only when intervener petition was filed that the petitioners filed for substitution which was rightly rejected and the case was closed. The petitioners have been given liberty to file fresh appeal but instead they filed appeal in this court and did not appear for 20 months to argue the case. Even this appeal is filed beyond limitation period. Thus there is no reason to admit this appeal and the petitioners are free to file a fresh case as directed by the lower court.</p> <p>Dictated & Corrected</p> <p><i>W Kulkarni</i> 15/11/22 Commissioner</p> <p><i>W Kulkarni</i> 15/11/22 Commissioner</p>	