

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**(Civil Appellate Jurisdiction)**  
**S. A. No. 101 of 2001**

.....

Nabin Sahu & Anr.	.....	Appellants
<b>Versus</b>		
Kanta Devi & Others	.....	Respondents

**CORAM: HON'BLE MR. JUSTICE KAILASH PRASAD DEO**  
**(Through : Video Conferencing)**

.....

For the Appellants	:	Mr. Arbind Kumar Sinha, Advocate
For the Respondents	:	

.....

**29/10.09.2020**

It appears that second appeal has been admitted on 04.12.2001 and a substitution petition has been filed vide I.A. No.3432/2020 for substituting the legal heirs of the appellant no.1 namely, Nabin Sahu.

Office has pointed out that substitution petition is barred by limitation, as such, necessary steps for setting aside abatement and limitation petition is required.

Office has further pointed out that though the appeal has been admitted on 04.12.2001, but the Lower Court Records has not been called for.

Learned counsel for the appellants, Mr. Arbind Kumar Sinha, has submitted that as per provisions under Order XXII Rule 3 & 9 C.P.C., interlocutory application has been filed and as such, separate petition under Section 5 of Limitation Act is not maintainable.

Be that as it may, since the office has pointed out defect(s), appellants are directed to file an petition explaining the situation and maintainability of the substitution petition filed vide I.A. No.3432/2020.

In the meantime, office is directed to call for the Lower Court Records as the appeal has already been admitted on 04.12.2001.

Learned counsel for the appellants is at liberty to explain the situation by way of supplementary affidavit.

**(Kailash Prasad Deo, J.)**