

**INSTRUCTIONS:** 1. ONLY TYPE the information in the relevant boxes. 3. DO NOT Staple the Sheet.  
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# IN THE HIGH COURT OF DELHI AT NEW DELHI

Case Type

CIVIL REVISION PETITION

Number

Year

OF 2023

IN THE MATTER OF:-

NAME

SHABANA AND ORS

.....FIRST PLAINTIFF / PETITIONER

VS

NAME

AZAM ALI @. ADAM ALI

....FIRST DEFENDANT / RESPONDENT

1 (a) Case Category

CIVIL REVISION PETITION

(b) Case Category

2 (a) Date of Decision of Court / Authority of First Instance

30 . 01 . 2023

(b) Case Particulars

Number

CS . SCT . 955 OF 2019

(c) Authority passing the above order

3(a) Date of Decision of Appellate / Revisional Court / Authority

(b) Case Particulars

Number

OF

(c) Court / Authority passing the above order

4(a) Similar Matter Case Type

Number

OF

(b) Date of Decision

5 Statute Involved

Date of Impugned order

30 . 01 . 2023

Final order

Interlocutory order

DATE

12 . 05 . 2023

Lawyers Code

D | 5333 | 2017

**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL REVISIONARY JURISDICTION)**

C.R.P. No. \_\_\_\_\_ /2023

**IN THE MATTER OF:**

Shabana and Ors

...Petitioners

Versus

Azam Ali @ Adam Ali

(Since deceased) Through LRs

...Respondents

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NEW DELHI  
DATED: 02/05/2023

PETITIONERS  
THROUGH

M. MOHSIN ISRAILY & ASSOCIATES  
ADVOCATES FOR THE PETITIONERS  
CHAMBER NO. 411, BLOCK-III,  
DELHI HIGH COURT, NEW DELHI  
CONTACT NO. 9711581097/9312541696  
EMAIL ADDRESS: [Israilylawoffices@gmail.com](mailto:Israilylawoffices@gmail.com)

**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL REVISIONARY JURISDICTION)**

C.R.P. No. \_\_\_\_\_ /2023

**IN THE MATTER OF:**

Shabana and Ors

...Petitioners

Versus

Azam Ali @ Adam Ali  
(Since deceased) Through LRs

...Respondents

**NOTICE OF MOTION**

1. Rehan Ali

S/o Azam Ali @ Adam Ali  
R/o 3310, 1<sup>st</sup>- 2<sup>nd</sup> Floor,  
Gali Farhatullah, Kucha Pandit,  
Lal Kuan, Delhi

2. Shazia Begum

D/o Azam Li @ Adam Ali  
R/o 3310, 1<sup>st</sup>- 2<sup>nd</sup> Floor,  
Gali Farhatullah, Kucha Pandit,  
Lal Kuan, Delhi

3. Imran Ali

S/o Azam Ali @ Adam Ali  
R/o 3310, 1<sup>st</sup>- 2<sup>nd</sup> Floor,  
Gali Farhatullah, Kucha Pandit,  
Lal Kuan, Delhi

4. Liaqat Ali

S/o Azam Ali @ Adam Ali  
R/o 3310, 1<sup>st</sup>- 2<sup>nd</sup> Floor,  
Gali Farhatullah, Kucha Pandit,  
Lal Kuan, Delhi

5. Salman Ali

S/o Azam Ali @ Adam Ali  
R/o 3310, 1<sup>st</sup>- 2<sup>nd</sup> Floor,  
Gali Farhatullah, Kucha Pandit,  
Lal Kuan, Delhi

6. Mr. Zulfikar (Attorney of the Plaintiff)

S/o Sardar Ali  
R/o House No. 3310,

Gali Farhatullah Khan,  
Kucha Pandit, Lal Kuan  
Delhi-110006

Sir,

Please take notice that the accompanying Petition would be listed on **9th day of May, 2023** before the Hon'ble High Court of Delhi or any other day thereafter as may be convenient to the Hon'ble High Court of Delhi.

NEW DELHI

DATED: 03/05/2023  
*02/05/2023*

PETITIONERS

THROUGH



**M.MOHSIN ISRAILY & ASSOCIATES**  
*ADVOCATES FOR THE PETITIONERS*  
CHAMBER NO. 411, BLOCK-III,  
DELHI HIGH COURT, NEW DELHI  
CONTACT NO. 9711581097/9312541696  
EMAIL ADDRESS: [Israilylawoffices@gmail.com](mailto:Israilylawoffices@gmail.com)

**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL REVISIONARY JURISDICTION)**

C.R.P. No. \_\_\_\_\_ /2023

**IN THE MATTER OF:**

Shabana and Ors

...Petitioners

Versus

Azam Ali @ Adam Ali  
(Since deceased) Through LRs

...Respondents

**URGENT APPLICATION**

To,  
The Registrar  
Delhi High Court,  
New Delhi

**MOST RESPECTFULLY SHOWETH:**

1. That kindly take the accompanying petition as an urgent one.  
The ground of urgency is that:

"The Ld. Trial Court has been pleased to allow the restoration of the suit which otherwise was abated as per mandate of Or. XXII Rule 3 CPC and there is likelihood that newly substituted Plaintiffs will proceed further with the trial "



NEW DELHI

PETITIONERS

DATED:

02/05/2023

THROUGH

**M.MOHSIN ISRAILY & ASSOCIATES  
ADVOCATES FOR THE PETITIONERS  
CHAMBER NO. 411, BLOCK-III,  
DELHI HIGH COURT, NEW DELHI  
CONTACT NO. 9711581097/9312541696  
EMAIL ADDRESS: [Israilylawoffices@gmail.com](mailto:Israilylawoffices@gmail.com)**

**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL REVISIONARY JURISDICTION)**  
C.R.P. No. \_\_\_\_\_ /2023

**IN THE MATTER OF:**

Shabana and Ors

...Petitioners

Versus

Azam Ali @ Adam Ali

(Since deceased) Through LRs

...Respondents

**MEMO OF PARTIES**

1. Shabana  
W/o Nazim Mirza  
R/o 2555, Gali Pirji Wali,  
Ahata Hajjan Bi, Rodgran,  
Delhi-110006
  
2. Husna Begum  
(Since deceased)  
Through LRs
  - a) Mohd Arif Khan  
R/o 3618, 2<sup>nd</sup> floor,  
Satguru Bhawan,  
Near Golcha Cinema, Daryaganj  
Delhi-110002
  
  - b) Mohd Kashif Khan  
S/o Mohd Arif Khan  
R/o 3618, 2<sup>nd</sup> floor,  
Satguru Bhawan,  
Near Golcha Cinema, Daryaganj  
Delhi-110002
  
  - c) Mohd Asim Khan  
S/o Mohd Arif Khan  
R/o 3618, 2<sup>nd</sup> floor,  
Satguru Bhawan,  
Near Golcha Cinema, Daryaganj  
Delhi-110002
  
  - d) Ms. Farha  
D/o Mohd Arif Khan  
R/o 3618, 2<sup>nd</sup> floor,  
Satguru Bhawan,

Near Golcha Cinema, Daryaganj  
Delhi-110002

VERSUS

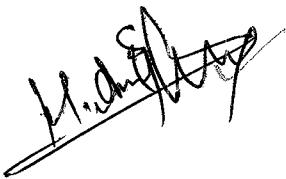
1. Rehan Ali  
S/o Azam Ali @ Adam Ali  
R/o 3310, 1<sup>st</sup>- 2<sup>nd</sup> Floor,  
Gali Farhatullah, Kucha Pandit,  
Lal Kuan, Delhi
2. Shazia Begum  
D/o Azam Li @ Adam Ali  
R/o 3310, 1<sup>st</sup>- 2<sup>nd</sup> Floor,  
Gali Farhatullah, Kucha Pandit,  
Lal Kuan, Delhi
3. Imran Ali  
S/o Azam Ali @ Adam Ali  
R/o 3310, 1<sup>st</sup>- 2<sup>nd</sup> Floor,  
Gali Farhatullah, Kucha Pandit,  
Lal Kuan, Delhi
4. Liaqat Ali  
S/o Azam Ali @ Adam Ali  
R/o 3310, 1<sup>st</sup>- 2<sup>nd</sup> Floor,  
Gali Farhatullah, Kucha Pandit,  
Lal Kuan, Delhi
5. Salman Ali  
S/o Azam Ali @ Adam Ali  
R/o 3310, 1<sup>st</sup>- 2<sup>nd</sup> Floor,  
Gali Farhatullah, Kucha Pandit,  
Lal Kuan, Delhi
6. Mr. Zulfikar (Attorney of the Plaintiff)  
S/o Sardar Ali  
R/o House No. 3310,  
Gali Farhatullah Khan,  
Kucha Pandit, Lal Kuan  
Delhi-110006

NEW DELHI

DATED:

02/05/2023

THROUGH

 PETITIONERS  
  
  


**M.MOHSSIN ISRAILY & ASSOCIATES**  
*ADVOCATES FOR THE PETITIONERS*  
CHAMBER NO. 411, BLOCK-III,  
DELHI HIGH COURT, NEW DELHI  
CONTACT NO. 9711581097/9312541696  
EMAIL ADDRESS: Israilylawoffices@gmail.com

## LIST OF DATES / SYNOPSIS

For ready reference : the Petitioners being Defendant in the suit before the Ld. Trial Court and Respondents being Plaintiff are referred herein by their position in the Trial Court

04.04.2019	Fresh suit bearing CS SCJ No. 995/2019 filed by Azam Ali @ Adam Ali through his attorney Mr. Zulfikar and summons issued to both the Defendants(Petitioners herein)
07.06.2020	Plaintiff, Azam Ali expires leaving behind his LRs.
21.08.2021	Defendant No.2 also expired and this fact is brought to the knowledge of the Court as well as Counsel for the Plaintiff.
21.10.2021	1 <sup>st</sup> belated Application under Or. XXII Rule 3 CPC moved by attorney of the Plaintiff claiming to be his sole surviving LR without seeking condonation of delay in filing the said application
07.02.2022	Direction by the Ld. Trial Court to move appropriate application for substitution of LRs of deceased Defendant No.2
26.04.2022	Proxy Counsel appearing for Plaintiff submits that he has misplaced the details of LRs of Defendant No.2
02.08.2022	Defendant No.1 prefers application u/s 340 CrPC seeking prosecution of Attorney of Plaintiff for perjury as he gave wrong details of LRs before the Court in his 1 <sup>st</sup> application

	Immediately thereafter, 2 <sup>nd</sup> / another application under Or. XXII Rule 3 CPC is preferred on behalf of the Plaintiff giving particulars of fresh LRs of deceased Plaintiff.
06.10.2022	Arguments are advanced by Counsel for the Petitioners as despite sufficient opportunity no one appeared for the Plaintiff. Matter was reserved for orders for 02.11.2022
02.11.2022	<p>On behalf of the Plaintiff, a belated application under Or. XXII Rule 4 CPC for substitution of LRs of deceased Defendant No.2 is filed without any supporting affidavit.</p> <p>Application u/s 5 of the Limitation Act for condonation of delay in filing application under Or. XXII Rule 3 as well as Rule 4 filed on behalf of Plaintiff without any supporting affidavit. Significantly, this Application is completely silent on ‘sufficient cause’ which caused inordinate delay of over 693 days that prevented the LRs of Plaintiff from filing the application under Or. XXII Rule 3 within 90 days w.e.f 07.06.2020</p>
30.01.2023	Despite vehement objections, the Trial Court passed a laconic non speaking order allowing the applications under Or. XXII Rule 3 and 4 CPC though the Plaintiff failed to show sufficient

	cause that prevented him from applying applications under Or. XXII Rule 3 and 4 within the prescribed period of limitation.
	<b>Hence the present petition</b>

### **BRIEF SYNOPSIS**

### **SUBSTANTIAL QUESTIONS FOR CONSIDERATION**

- a) Whether the unconscionable, unexplained and inordinate delay of more than 693 days in preferring the belated applications under Or. XXII Rule 3 dated 02.08.2022 was rightly condoned by the Ld. Trial Court ?
- b) If not, whether trial court ought to have rightfully declared that the suit stood abated after lapse of prescribed period of limitation for filing application under Or. XXII Rule 3 CPC.
- c) Whether trial court while allowing the substitution of LRs of deceased Plaintiff considered that Plaintiff through his attorney had failed to properly explain the sufficient cause that prevented him/her to file appropriate application for substitution of LRs 90 days w.e.f. 07.06.202



COURT FEES 100/-

**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL REVISIONARY JURISDICTION)**

C.R.P. No. \_\_\_\_\_ /2023

**IN THE MATTER OF:**

Shabana and Ors

...Petitioners

Versus

Azam Ali @ Adam Ali  
(Since deceased) Through LRs

...Respondents

**CIVIL REVISION PETITION UNDER S. 115**

**READ WITH S.151 CPC FOR SETTING ASIDE  
ORDER DATED 30.01.2023 PASSED BY THE COURT  
OF SH. ANURAG CHHABRA, LD. CJ-03 (CENTRAL),  
TIS HAZARI COURTS, DELHI IN CS SCJ. NO.  
955/2019 TITLED AS "AZAM ALI @ ADAM ALI V  
SHABANA AND ORS" ALONG WITH SUPPORTING  
AFFIDAVIT**

To,

The Hon'ble Chief Justice and their Lordship's Companion Justices of the Hon'ble High Court of Delhi at New Delhi

The Humble petition of the above named Petitioner.

**MOST RESPECTFULLY SHOWETH:**

- That the humble petitioners have preferred the present Civil Revision petition under section 115 of CPC for setting aside the orders dated 30.01.2023 passed by the Court of Sh. Anurag Chhabra, Ld. CJ-03(Central), Tis Hazari Courts Delhi in CS SCJ. No. 995/2019 in case titled as "*Azam Ali @ Adam Ali v Shabana And Ors*" whereby vide impugned order, the Ld. trial court has allowed the belated applications preferred by the Plaintiff/Respondents therein under Or. XXII Rule 3 and 4. Vide the impugned order, the Ld. Trial Court has condoned the unconscionable and inordinate delay

of 693 days in moving the application under Or. XXII Rule 3 CPC by a non speaking / laconic order; particularly when the said delay was in fact not even properly explained in the application u/s 5 of the limitation act filed by the Plaintiff/Respondent.

2. That since no appropriate application was filed by the Plaintiff/his attorney or LRs within the prescribed period of limitation from (i)date of death of the Plaintiff i.e. 07.06.2020 and (ii)date of information of death of Defendant No.2 given to Plaintiff's counsel i.e., 21.08.2021, CS SCJ No. 995/2019 automatically stood abated and a valuable right in favour of the Defendants was created. However, the Ld. Trial Court lightly ignored the inordinate delay of more than 693 days and allowed the applications under Or. XXII Rule 3 and 4 CPC.

**BRIEF FACTS LEADING TO FILING OF THE PRESENT PETITION**

3. That the predecessor of Respondents, the original Plaintiff Mr. Azam Ali @ Adam Ali through his attorney Mr. Zulfikar, preferred a simplicitor suit for permanent injunction bearing No. CS SCJ No. 995/2019 before the Ld. CJ-03, Tis Hazari Courts, Delhi. Summons for settlement of issues were issued for all the Defendants on 04.04.2019.
4. That on 10.11.2020, matter was listed for completion of pleadings, however Ld. Counsel for the Plaintiffs submitted before the ld. Trial Court that Plaintiff expired somewhere in the month of June. The Ld. Trial Court observed that despite the same, no appropriate application was preferred. True

Copy of the death certificate of the Plaintiff and order dated 10.11.2020 is annexed for kind perusal as **Annexure P-1.**

5. That on 16.02.2021, no one appeared for the Plaintiff. As such the matter was adjourned for further proceedings for 03.05.2021. But the matter couldn't be taken up on account prevailing covid-19 restrictions. True Copy of the order dated 16.02.2021 is annexed for kind perusal as **Annexure P-2.**
6. That thereafter the case was listed on 21.08.2021 when the Ld. Counsel for the Plaintiff was apprised about the death of the Defendant No.2. Interestingly, even on 21.08.2021, no appropriate application was preferred on behalf of the Plaintiffs for substitution of his LRs i.e., even after expiry of more than 365 days from the date of death of the Plaintiff i.e., 07.06.2020. True Copy of the order dated 21.08.2021 is annexed for kind perusal as **Annexure P-3.**
7. That on 21.10.2021, Attorney of the Plaintiff Mr. Zulfiqar, filed one application under Or. XXII Rule 3 CPC claiming himself to the sole surviving heir of the deceased Plaintiff. In his application, Mr. Zulfiqar admitted that the Plaintiff had expired on 07.06.2020. However, despite admission of filing it belatedly, the said application was not accompanied by a supporting application u/s 5 of the Limitation Act 1963. Copy of the application dated 21.10.2021 and the order dated 21.10.2021 is annexed herein for kind perusal of this Hon'ble Court as **Annexure P-4(Colly).**

8. That on 07.02.2022, the Ld. Trial Court gave direction to Ld. Counsel for the Plaintiff to move appropriate application for impleadment of LRs of deceased Defendant No.2. True Copy of the order dated 07.02.2022 is annexed herein for kind perusal as **Annexure P-5.**
9. That on 26.04.2022, Ld. Proxy Counsel appearing for the Plaintiff requested the Ld. Trial Court that details of LRs of deceased Defendant No.2 be provided to him again since he had misplaced the same provided previously. True Copy of the order dated 26.04.2022 is annexed for kind perusal as **Annexure P-6.**
10. That on 02.08.2022, Petitioner No.1 preferred an application u/s 340 CrPC before the Ld. Trial Court seeking prosecution of Attorney of Plaintiff for perjury as he had given wrong details of LRs of the deceased Plaintiff before the Court in his 1<sup>st</sup> Application dated 21.10.2021 under Or. XXII Rule 3 CPC. A copy to that effect was handed over to the Ld. Counsel for the Plaintiff before the Ld. Trial Court. True copy of the Application u/ 340 CrPC filed by the Petitioner is annexed herein as **Annexure P-7.**
11. That immediately thereafter, after perusing the application u/s 340 CrPC filed by the Petitioner, 2<sup>nd</sup> / another application under Or. XXII Rule 3 CPC was preferred on behalf of the Plaintiff giving particulars of fresh LRs of deceased Plaintiff. Significantly, the said application was neither supported by an affidavit nor a single averment explaining the delay caused in moving the said application w.e.f. 07.06.2020 i.e., date of death of the original Plaintiff. In fact the said

application was completely silent as to why the attorney of the Plaintiff had concealed material particulars and filed a misconceived first application under Or. XXII Rule 3 CPC. Copy of the 2<sup>nd</sup> Application dated 02.08.2022 is annexed herein for kind perusal of this Hon'ble Court as **Annexure P-8.**

12. That on 06.10.2022, Arguments were advanced by the Petitioner and the right to advance arguments by the Respondent/Plaintiff was got closed after giving them sufficient opportunity. Copy of the order dated 06.10.2022 is annexed herein for kind perusal of this Hon'ble Court as **Annexure P-9.**

13. That on 02.11.2022, on behalf of the Plaintiff, a belated application under Or. XXII Rule 4 CPC for substitution of LRs of deceased Defendant No.2 was filed without any supporting affidavit in addition to another Application u/s 5 of the Limitation Act for condonation of delay in filing application under Or. XXII Rule 3 as well as Rule 4. The said application was also filed without any supporting affidavit. Significantly, both of these Applications were completely silent on ‘sufficient cause’ which caused inordinate delay of over 693 days that prevented the LRs of Plaintiff from filing the application under Or. XXII Rule 3 within 90 days w.e.f 07.06.2020 and inordinate delay of more than 450 days in filing application under Or. XXII Rule 4 CPC w.e.f 21.08.2021 when the death of Defendant No.2 was conveyed to the Ld. Counsel for the Plaintiff.

14. That despite vehement objections by the Petitioners as regards to the fact that both the applications were filed beyond the period of limitation and without explaining the sufficient cause that prevented the filing, the Trial Court passed a laconic non speaking order allowing the applications under Or. XXII Rule 3 and 4 CPC though the Plaintiff had failed to show sufficient cause that prevented him from applying applications under Or. XXII Rule 3 and 4 within the prescribed period of limitation.

15. Thus feeling aggrieved by the impugned order dated 30.01.2023, the humble Petitioners have approached this Hon'ble seeking reliefs as prayed for on the grounds as mentioned hereunder.

### GROUNDS

- a. Because the Ld. Trial Court passed the impugned order on the basis of conjectures and surmises as such the same is not tenable in the eyes of law.
- b. Because the impugned order suffers patent irregularity in so far as it condones an unconscionable delay in filing the application under Or. XXII Rule 3 CPC of more than 693 days and is laconic order that does not deal with the unexplained delay caused. (See : *DLF HOMES RAJAPURA PVT. LTD v LATE O.P. MEHTA* NEUTRAL CITATION NO: 2022/DHC/002527)
- c. Because vide the impugned order, the Ld. Trial Court, though allows the Application under Or. XXII Rule 3

CPC but does not even discuss the inordinate delay of 693 days caused in filing the said application.

- d. Because the Ld. Trial Court erred in allowing the Application under Or. XXII Rule 3 CPC in as much as bare reading of the application dated 02.08.2022 (not even supported with a duly sworn affidavit) reveal that no substantial ground was averred let alone made justifying the delay of 693 days.
- e. Because the Ld. Trial Court, while allowing the applications under Or. XXII Rule 3 & 4 erred in appreciating that the decisive factor in condonation of delay is not the length of delay but sufficiency of satisfactory explanation.
- f. Because the Ld. Trial Court , while passing the impugned order, erred in appreciating that the Respondents had miserably failed to place on record ‘sufficient cause’ to explain the delay of more than 450 days in filing the Application under Or. XXII Rule 4 CPC and 693 days in filing the Application under Or. XXII Rule 3 CPC.
- g. Because the Ld. Trial Court erred in appreciating that neither of the said Applications for substitutions filed on behalf of the Plaintiff were supported by any duly sworn affidavit.
- h. Because the Ld. Trial Court having observed that the Plaintiff/Respondents have not been diligent in

prosecuting their suit, erred in condoning the unexplained delay on their behalf by way of a non speaking order.

- i. Because the Ld. Trial Court, while passing the impugned order failed to appreciate that even the Application u/s 5 of the limitation Act seeking condonation of delay in filing Applications under Or. XXII Rule 3 and 4 was filed belatedly and which further did not contain material averments to explain the delay of more than 693 days and 450 days qua filing of both the Applications respectively.
- j. Because the Ld. Trial Court further erred in appreciating that since there was no justification for delay on behalf of the Respondents, the suit effectively stood abated against all the Petitioners/Defendants and a valuable statutory right had accrued in their favour. (See : *BALWANT SINGH V. JAGDISH SINGH* (2010) 8 SCC 685; *DEEPAK VERMA V. DAYA NAND* C.R.P. NO. 183/2018 DELHI HIGH COURT)
- k. Because the Ld. Trial Court failed to appreciate that once the proceedings stood abated by way of operation of law, the delay caused in filing the application for substitution of LRs was required to be properly explained with sufficient and cogent reasons.
- l. Because the Ld. Trial Court erred in appreciating that the Respondents, who had filed belated applications

for effectively setting aside the abatement of the suit, had got their responsibility of explaining the delay augmented. But failed to discharge their burden / responsibility miserably.

- m. Because the Ld. Trial Court erred in accepting the grounds for condonation of delay in filing the Applications for substitution as though the grounds raised pertained to the health of Ld. Counsel for the Respondent/Plaintiff, however, the said Ld. Counsel was almost available and appeared before the Ld. Trial Court on almost each and every date but took no corrective steps in this regard.
  - n. Because the Ld. Trial Court has erred in exercising its jurisdiction warranting indulgence of this Hon'ble Court through its revisionary powers u/s 115 CPC.
  - o. Any other ground, with prior permission/leave of this Hon'ble Court.
16. That this Hon'ble Court has the jurisdiction to entertain and adjudicate the present petition. It is further stated that the aforesaid facts and grounds constitute the cause of action to approach this Hon'ble Court by way of the present petition.
17. That no other petition for reliefs as prayed for has been filed by the Petitioners before this Hon'ble Court or the Hon'ble Supreme Court of India or any other Hon'ble Court of law.

18. That the Petitioners undertake to abide by all the necessary compliance including submission of original documents if necessary for proper adjudication of the present case.

### **PRAYER**

In view of the facts and circumstances of the present case, it is therefore most respectfully prayed before this Hon'ble Court that this Hon'ble Court may most graciously be pleased to:

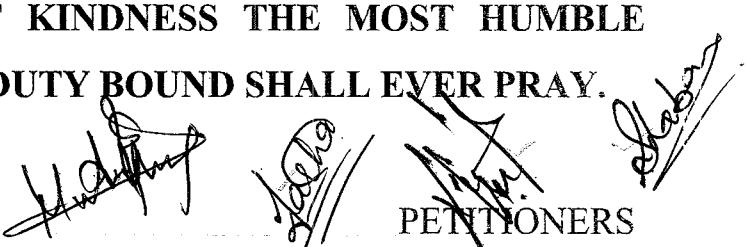
- A. Allow the present petition and set aside the impugned order dated 30.01.2023 passed by the Ld. Trial Court of Sh. Anurag Chhabra, Ld. CJ-03 (Central) Tis Hazari Courts, Delhi in CS SCJ No. 995/2019 titled as "*Azam Ali @ Adam Ali v Shabana And Ors*" and declare the suit to have been abated by way of operation of law.
- B. Pass any other order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the instant case.

**FOR THIS ACT OF KINDNESS THE MOST HUMBLE  
PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.**

NEW DELHI  
DATED:

02/05/2023

THROUGH



PETITIONERS



**M.MOHSIN ISRAILY & ASSOCIATES  
ADVOCATES FOR THE PETITIONERS  
CHAMBER NO. 411, BLOCK-III,  
DELHI HIGH COURT, NEW DELHI  
CONTACT NO. 9711581097/9312541696  
EMAIL ADDRESS: [Israilylawoffices@gmail.com](mailto:Israilylawoffices@gmail.com)**

**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL REVISIONARY JURISDICTION)**  
C.R.P. No. \_\_\_\_\_ /2023

**IN THE MATTER OF:**

Shabana and Ors

...Petitioners

Versus

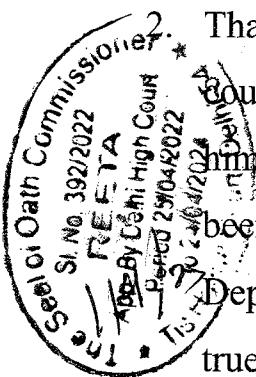
Azam Ali @ Adam Ali

(Since deceased) Through LRs

...Respondents

I, Shabana W/o Nazim Mirza aged about 50 years R/o House No. 2555, Gali Pirji Wali, Ahata Hajjan Bi Rodgran, Delhi-110006, do hereby solemnly affirm and declare as hereunder:-

1. That the deponent is one the Petitioner in the above note case as such she is well conversant with the facts of the case and competent to swear the present affidavit in support of her accompanying Petition.



That the accompanying Petition has been drafted by my counsel on the basis of instructions and documents supplied to him by the deponent. The contents of the said Petition have been read over and explained to her in her vernacular. The Deponent has understood the contents thereof; the same are true and correct to the best of her knowledge. The Legal submissions made therein are as per the legal advice rendered to her by her counsel and the deponent believed the same are correct and legally sound.

3. That the annexures filed in accompanying the Petition are true copies of its original.

4. That the contents of the accompanying Petition are not being repeated here for the sake of brevity, however, the contents of the Petition be read in part and parcel of this affidavit.

*Shabir*  
DEPONENT

### VERIFICATION

Verified at New Delhi on this 11<sup>th</sup> day of February, 2023, that the contents of Para 1 to 4 of this affidavit are true and correct to my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

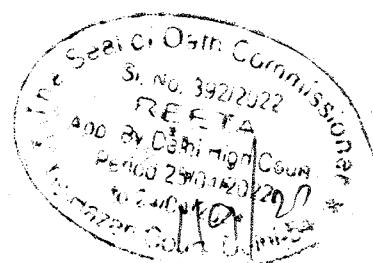
*Shabir*  
DEPONENT

*M. Shabir*  
I certify the above Depoent who  
has signed in my presence

CERTIFIED THAT THE DEPONENT  
 Shri/Smt./Km.....  
 S/o W/o D/o.....  
 F/o.....  
 Identified by S/o.....  
 has soberly.....  
 Delhi on.....  
 that the contents of..... have  
 been read and explained to him and he is  
 correct to his knowledge

*feels*  
 O.P. Commissioner Date

31 MAY 2023



**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL REVISIONARY JURISDICTION)**

C.R.P. No. \_\_\_\_\_ /2023

**IN THE MATTER OF:**

Shabana and Ors

...Petitioners

Versus

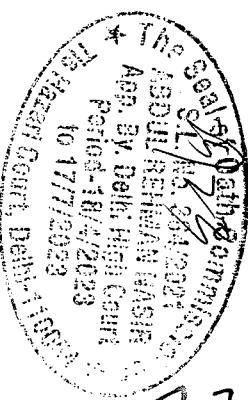
Azam Ali @ Adam Ali

(Since deceased) Through LRs

...Respondents

I, Mohd Arif Khan R/o 3618, 2<sup>nd</sup> floor, Satguru Bhawan, Near Golcha Cinema, Daryaganj Delhi-110002, do hereby solemnly affirm and declare as hereunder:-

1. That the deponent is one the Petitioner in the above note case as such he is well conversant with the facts of the case and competent to swear the present affidavit in support of his accompanying Petition.
2. That the accompanying Petition has been drafted by my counsel on the basis of instructions and documents supplied to him by the deponent. The contents of the said Petition have been read over and explained to him in his vernacular. The Deponent has understood the contents thereof; the same are true and correct to the best of her knowledge. The Legal submissions made therein are as per the legal advice rendered to him by his counsel and the deponent believed the same are correct and legally sound.
3. That the annexures filed in accompanying the Petition are true copies of its original.
4. That the contents of the accompanying Petition are not being repeated here for the sake of brevity, however, the contents of the Petition be read in part and parcel of this affidavit.



25/2/23

*Mohd Azhar*  
DEPONENT

### VERIFICATION

25 APR 2023

Verified at New Delhi on this 25 day of February, 2023, that the contents of Para 1 to 4 of this affidavit are true and correct to my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

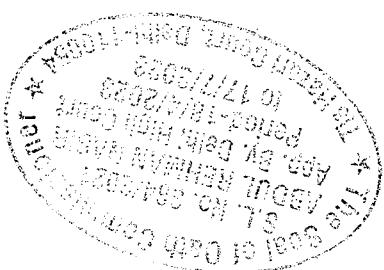
*Mohd Azhar*  
DEPONENT

MOHD AZHAR ADV.  
Identify the Deponent who  
has signed in my presence

CERTIFIED THAT THE DEPONENT

Shri/Smt./Kmt. *Mohd Azhar Khan*  
S/o W/c D/o .....  
B/o .....  
Identified by Shri/Smt. *Mohd Azhar*  
has solemnly affirmed before me a  
Delhi on ..... at S. No. ....  
that the Contains of the Affidavit which have  
been read and explained to him/her are true and  
correct to his/her knowledge.

Sub Commisioner Date  
25 APR 2023



**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL REVISIONARY JURISDICTION)**  
C.R.P. No. \_\_\_\_\_ /2023

**IN THE MATTER OF:**

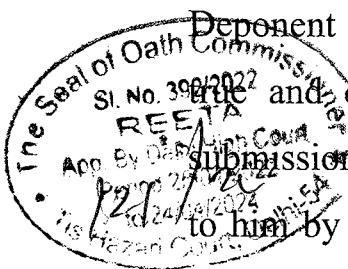
Shabana and Ors ...Petitioners

Versus

Azam Ali @ Adam Ali  
(Since deceased) Through LRs ...Respondents

I, Mohd Kashif Khan R/o 3618, 2<sup>nd</sup> floor, Satguru Bhawan, Near Golcha Cinema, Daryaganj Delhi-110002, do hereby solemnly affirm and declare as hereunder:-

1. That the deponent is one the Petitioner in the above note case as such he is well conversant with the facts of the case and competent to swear the present affidavit in support of his accompanying Petition.
  
2. That the accompanying Petition has been drafted by my counsel on the basis of instructions and documents supplied to him by the deponent. The contents of the said Petition have been read over and explained to him in his vernacular. The Deponent has understood the contents thereof; the same are true and correct to the best of her knowledge. The Legal submissions made therein are as per the legal advice rendered to him by his counsel and the deponent believed the same are correct and legally sound.
  
3. That the annexures filed in accompanying the Petition are true copies of its original.
  
4. That the contents of the accompanying Petition are not being repeated here for the sake of brevity, however, the contents of the Petition be read in part and parcel of this affidavit.



DEPONENT  
*[Signature]*

## VERIFICATION

Verified at New Delhi on this 01 day of February, 2023, that the contents of Para 1 to 4 of this affidavit are true and correct to my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

DEPONENT  
*[Signature]*

*M. J. Khan*  
Identity the Deponent who  
has signed in my Presence

CERTIFIED THAT HE DEPONENT  
 Shri/Smt/Km..... *Arif Ali Khan*  
 S/o W/o D/o.....  
 F/o.....  
 Identified by me  
 has signed this affidavit  
 in my presence on the 01 MAY 2023.  
 that the contents of the affidavit are true and  
 correct to his knowledge  
*[Signature]*  
 - Oar Commissioner Date

01 MAY 2023



**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL REVISIONARY JURISDICTION)**  
C.R.P. No. \_\_\_\_\_ /2023

**IN THE MATTER OF:**

Shabana and Ors

...Petitioners

Versus

Azam Ali @ Adam Ali

(Since deceased) Through LRs

...Respondents

I, Mohd Asim Khan R/o 3618, 2<sup>nd</sup> floor, Satguru Bhawan, Near Golcha Cinema, Daryaganj Delhi-110002, do hereby solemnly affirm and declare as hereunder:-

1. That the deponent is one the Petitioner in the above note case as such he is well conversant with the facts of the case and competent to swear the present affidavit in support of his accompanying Petition.
  
2. That the accompanying Petition has been drafted by my counsel on the basis of instructions and documents supplied to him by the deponent. The contents of the said Petition have been read over and explained to him in his vernacular. The Deponent has understood the contents thereof; the same are true and correct to the best of her knowledge. The Legal submissions made therein are as per the legal advice rendered to him by his counsel and the deponent believed the same are correct and legally sound.
  
3. That the annexures filed in accompanying the Petition are true copies of its original.
  
4. That the contents of the accompanying Petition are not being repeated here for the sake of brevity, however, the contents of the Petition be read in part and parcel of this affidavit.



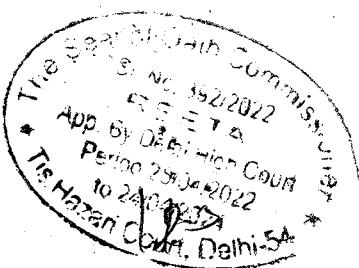
*M. J. Singh*  
DEPONENT

## VERIFICATION

Verified at New Delhi on this 01 day of February, 2023, that the contents of Para 1 to 4 of this affidavit are true and correct to my knowledge and belief. No part of it is false and nothing material

*M. J. Singh*  
Identity the Deponent  
has been concealed therefrom.  
has signed in my presence

*M. J. Singh*  
DEPONENT



CERTIFIED THAT HE DEPONENT  
Shri/Smt./K.m.....  
S/o W/o D/o.....  
F/o.....  
Identified by .....  
has signed .....  
on .....  
Date .....  
that the Contents of the Affidavit which have  
been read and explained to him are TRUE and  
correct to his knowledge  
— Oath Commissioner C.R.P.

*M. J. Singh*  
01 MAY 2023

**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL REVISIONARY JURISDICTION)**

C.R.P. No. \_\_\_\_\_ /2023

**IN THE MATTER OF:**

Shabana and Ors

...Petitioners

Versus

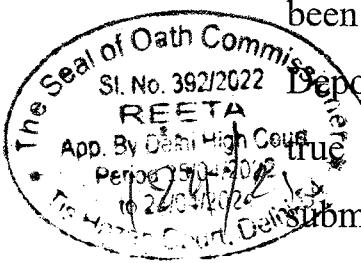
Azam Ali @ Adam Ali

(Since deceased) Through LRs

...Respondents

I, Farha R/o 3618, 2<sup>nd</sup> floor, Satguru Bhawan, Near Golcha Cinema, Daryaganj Delhi-110002, do hereby solemnly affirm and declare as hereunder:-

5. That the deponent is one the Petitioner in the above note case as such she is well conversant with the facts of the case and competent to swear the present affidavit in support of her accompanying Petition.
  
1. That the accompanying Petition has been drafted by my counsel on the basis of instructions and documents supplied to him by the deponent. The contents of the said Petition have been read over and explained to her in her vernacular. The deponent has understood the contents thereof; the same are true and correct to the best of her knowledge. The Legal submissions made therein are as per the legal advice rendered to her by her counsel and the deponent believed the same are correct and legally sound.
  
2. That the annexures filed in accompanying the Petition are true copies of its original.
  
3. That the contents of the accompanying Petition are not being repeated here for the sake of brevity, however, the contents of the Petition be read in part and parcel of this affidavit.





DEPONENT

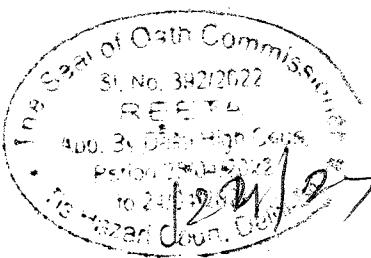
### VERIFICATION

Verified at New Delhi on this 01<sup>st</sup> day of February, 2023, that the contents of Para 1 to 4 of this affidavit are true and correct to my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

*M. Jolly*  
01/02/2023  
Identify the Deponent who  
has signed in my Presence



DEPONENT



ATTESTED THAT THE DEPONENT  
Smt./Kin. *Reeta*,  
S/o/o D/o. *Atma Mawer*,  
is solemnly  
Sworn,  
that the contents of the  
affidavit have  
been read and explained to him and are true and  
correct to his knowledge.  
*Atma Mawer*  
01 MAY 2023  
S. Preety  
Kirti  
Oath Commissioner Date

01 MAY 2023

**IN THE COURT OF SH. ANURAG CHHABRA, CIVIL JUDGE-03,  
CENTRAL DISTRICT, TIS HAZARI COURT, DELHI.**

CS SCJ 955/19

AZAM ALI @ ADAM ALI Vs. SHABANA

**ORDER**

Vide this order, I shall dispose of the application filed on behalf of LRs of deceased plaintiff u/o 22 rule 3 CPC, order 22 rule 4 CPC and section 5 of Limitation Act, 1963.

1. At the outset, it is to be observed that an application u/o 22 rule 3 CPC was filed on behalf of LRs of deceased plaintiff on 21.10.2021.
2. Thereafter on 02.08.2022, LRs of deceased plaintiff have filed another application u/o 22 rule 3 CPC.
3. It is to be further observed that name of only one LR i.e. Mr. Zulfikar was mentioned in the application filed u/o 22 rule 3 CPC on 21.10.2021. However, the names of five LRs have been mentioned in the application u/o 22 rule 3 CPC filed on 02.08.2022. It is interesting to observe that name of Zulfikar is not mentioned amongst the name of five LRs of deceased plaintiff in the application filed on 02.08.2022.
4. Ld. Counsel for LRs of deceased plaintiff has stated that application u/o 22 rule 3 CPC filed on 21.10.2021 does not correctly mention the names of the LRs of deceased plaintiff and therefore the said application may not be considered by the court.

5. It has been stated in the application u/o 22 rule 3 CPC that plaintiff has expired on 07.06.2020 and the LRs as detailed in para 2 of the application be substituted as parties in place of deceased plaintiff.
6. Ld. Counsel for defendant no. 1 submitted that correct names of LRs of deceased plaintiff have been concealed from the court and therefore defendant has also filed application u/s 340 Cr.PC against the plaintiff. The present application is an abuse of process of law and the same deserves to be dismissed. Moreover, plaintiff had expired on 07.06.2020 and the present application has been filed on 02.08.2022 which is apparently beyond the stipulated period of 90 days in filing application u/o 22 rule 3 CPC.
7. In the application u/o 22 rule 4 CPC, it has been stated that defendant no. 2 has expired on 06.04.2021 and the same came to the knowledge of the plaintiff on the last date of hearing i.e. 06.10.2022. Therefore, LRs of deceased defendant no. 2 as detailed in para 3 of the application be substituted as parties in place of deceased defendant no. 2. The present application has been filed on 02.11.2022.
8. Ld. Counsel for defendant no. 1 and LRs of defendant no. 2 has argued before the court that the present application is time barred.
9. An application u/s 5 of the Limitation Act has been filed accompanied with the applications. It has been stated in the application that Ld. Counsel for the plaintiff was not medically fit during the period of Covid and he also suffered from heart attack and therefore delay in filing the application is not deliberate. Ld. Counsel for LRs of deceased plaintiff further submits that he is also ready to place on record medical documents pertaining to his illness.

10. Arguments heard. Case file perused.
11. Ld. counsel for LRs of deceased plaintiff has stated in the application u/s 5 of the Limitation Act that because of his illness he could not file the applications u/o 22 rule 3 CPC and u/o 22 rule 4 CPC within the stipulated period of time. He has further stated in application u/o 22 rule 4 CPC that he came to know regarding the demise of defendant no. 2 on last date of hearing i.e. 06.10.2022. However on 21.08.2021, Ld. Counsel for defendant stated before the court that defendant no. 2 has expired. Ld. Counsel for plaintiff was also present before the court on 21.08.2021. On 21.10.2021 Ld. Counsel for defendants again submitted before the court that defendant no. 2 has expired and even on that day Ld. Counsel for plaintiff was present before the court. On 07.02.2022 Ld. Counsel for plaintiff stated before the court that defendant no. 2 has expired meaning thereby that first time Ld. Counsel for LRs of deceased plaintiff got the knowledge of the demise of defendant no. 2 on 21.08.2021 and the application u/o 22 rule 4 CPC has been filed on 02.11.2022.
12. In view of the above discussion, it is clear that present suit has not been diligently pursued by the LRs of deceased plaintiff. However in the interest of justice, in order to avoid the multiplicity of proceedings and taking a justice oriented approach, the present applications i.e. application u/o 22 rule 3 CPC, u/o 22 rule 4 CPC and section 5 of Limitation Act, 1963 are allowed subject to cost of Rs. 3000/- to be paid to the defendant no. 1 and LRs of deceased defendant no. 2.

(ANURAG CHHABRA)  
CJ-03 : Central : THC : Delhi.  
30.01.2023



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**भारतीय विशिष्ट पहचान प्राप्तिकरण**  
**भारत सरकार**  
**Unique Identification Authority of India**  
**Government of India**

नामकरण क्रमांक Enrollment No.: 1171/03059/03023

To,

ZULFIQAR ALI  
 गुरुनाला अमृत  
 S/o SARDAR ALI  
 3310 GALI FARRATULLAH KHAN KUCHA PANDIT LAL KUAN  
 Delhi: G.P.O. Delhi G.P.O.  
 North Delhi  
 Delhi: 110006  
 Mobile.

13/11/2011

UC 03858831 4 IN

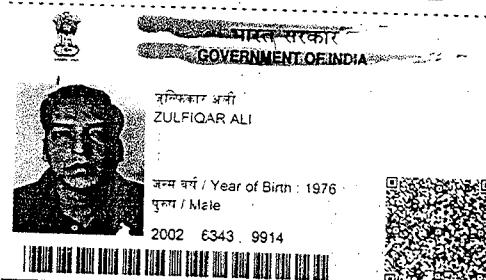
Ref No: 412B3E9X-3658831



आपका आधार क्रमांक / Your Aadhaar No. :

**2002 6343 9914**

आधार — आम आदमी का अधिकार



आधार — आम आदमी का अधिकार

**COPY OF COPY**

Date. ....

Examiner III 2022

127

True copy

37



CS No. 955/19  
Azam Ali @ Adam Ali Vs. Shabana

10.11.2020

HEARD THROUGH VIDEO CONFERENCING

Present : None for the plaintiff.

Mohd. Furqan, Ld. Counsel for the defendant no.1 & 2.

Courts were under lockdown due to COVID pandemic from 22.03.2020 to 31.07.2020.

Matter is listed for completion of pleadings.

Ld. Counsel for defendant no.1 & 2 submitted that plaintiff has expired somewhere in the month of June.

No appropriate application has been moved till now. However, in view of the directions of Hon'ble High Court of Delhi, no adverse action is taken due to COVID pandemic.

Put up for further proceedings on 16.02.2021.

(DIVYA GUPTA)  
CIVIL JUDGE-03(C), THC

10.11.2020

19  
ATTESTED

DATE

EXAMINER / 11/2022

True copy

Annexure - P-3

38

CS SCJ No. 955/2019

Azam Ali @s Adam Ali vs. Shabana



16.02.2021

Present: None for plaintiff.

Defendant in person.

Put up for further proceedings on 03.05.2021.

  
(ANURAG CHHABRA)  
CIVIL JUDGE-03(C), THC  
16.02.2021

21

ATTESTED
DATE

23 JUL 2022

True copy



CS NO. 955/19  
AZAM ALI @ ADAM ALI Vs. SHABANA

21.08.2021

**HEARD THROUGH VIDEO CONFERENCING.**

Present :-  
Sh. Sanjay Tripathi, Ld. Counsel for petitioner (via video conferencing via cisco webex).  
Mohd. Furqan, Ld. Counsel for defendant no. 1 and 2 (via video conferencing via cisco webex).

It is submitted by Ld. Counsel for defendant no. 1 and 2 that defendant no. 2 has expired.

Ld. Counsel for plaintiff is directed to move appropriate application for impleadment of LRs of defendant no. 2 on record.

Put up for further proceedings on **21.10.2021**.

(ANURAG CHHABRA)

CIVIL JUDGE-03-C/THC

21.08.2021

ATTESTED	
DATE	EXAMINER

13 JUL 2021

True copy

Annexure P-4  
(contd)



IN THE COURT OF SHRI ANURAG CHHABRA, ASCJ,  
TIS HAZARI (CENTRAL DISTRICT), DELHI  
CS(OS) 955/2019

IN THE MATTER OF:

AZAM ALI@ ADAM  
...PLAINTIFF

VERSUS

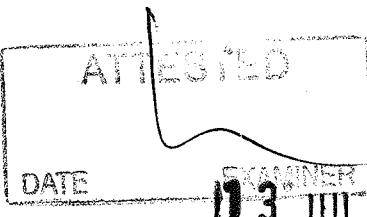
SHABANA & ORS  
...DEFENDANTS

N.D.O.H.: 21.10.2021

APPLICATION ON BEHALF OF APPLICANT UNDER  
ORDER XXII RULE 3 READ WITH SECTION 151 CPC  
FOR IMPLEADING THE LRS OF DECEASED  
PLAINTIFF AZAM ALI@ADAM ALI.

MOST RESPECTFULLY SHOWETH:

1. That the above said suit is pending  
disposal before this Hon'ble Court and is  
fixed for 21.10.2021.





41

2. That the applicant is the Attorney  
Namely Zulfiqar who is the son of  
deceased Petitioner's younger brother  
Namely Sardar Ali in the present suit for  
Permanent injunction.

3. That the plaintiff Namely Azam Ali @  
Adam Ali has expired on 07.06.2020, leaving  
behind the following legal heirs:-

a. Zulficar (NIECE) SON OF SARDAR ALI  
R/O 3310 Gali Farahatullah Khan, Kucha  
Pandit , Lal Kuan DELHI -110006

4. That there is no other legal heirs of  
plaintiff except the above named legal  
heir.

APPEAL NO.	DATE	EXAMINER
------------	------	----------

113 / 111 2022



5. That the above named legal heir is a necessary party to the present suit and should be added in the array of parties in place of plaintiff Azam Ali.

6. That in case the L.Rs. of the plaintiff were not impleaded as parties as legal heirs of plaintiff, the applicant and other defendants will suffer irreparable loss and injury, which cannot be compensated in any manner whatsoever and it will cause multiplicity of litigation.

#### **PRAYER**

It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to allow the present application and implead the legal heirs of plaintiff

ATTACHED	
DATE	EXAMINER

13 July 2022

43



Azam Ali @ Adam Ali as mentioned in para No.3 of the application, as parties to the suit and the notice of the application may kindly be issued to the L.Rs of the plaintiff and defendant No.1 & 2 in the interest of justice.

Zutkischay

DELHI  
DATED:

**APPLICANT**

## THROUGH

(SANJAY TRIPATHI)  
ADVOCATE

44



IN THE COURT OF SHRI ANURAG CHHABRA ,ASCJ,  
- TIZ HAZARI(CENTRAL DISTRICT) , DELHI  
CS(OS) 955/2019

IN THE MATTER OF:

Azam Ali ...PLAINTIFF

VERSUS

Shabana & Ors ...DEFENDANTS

**AFFIDAVIT**

Affidavit of Zulfiqar , S/o Late Shri  
Sardar Ali, R/o 3310,Gali Farhatullah Khan  
,Kucha Pandit, Lal Kuan , Delhi 110006.

I, the above named deponent do hereby  
solemnly affirm and declare as under:-

1. That I am the LR Of the deceased  
Plaintiff in the above noted case and being  
well conversant with the facts and

ATTESTED	
DATE	EXAMINER

13 III 2022



circumstances of the case and am competent to swear this affidavit.

2. That the accompanying application Under XXII Rule 3 CPC has been drafted by my counsel under my instructions the contents of which read over to me in my vernacular language to be true and correct and the same may be read as part and parcel of this affidavit as they are not being repeated here for the sake of brevity and to avoid the repetition.

*Zetlizaf A.*  
Deponent

#### VERIFICATION :

I, the above named deponent do hereby verify that the contents of the above said affidavit are true and

ATTESTED	
DATE	EXAMINER

13 JULY 2022

12)

46



correct to the best of my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

Verified at Delhi on Twenty First day of October, 2021.

Zulfiqar Ali  
Deponent

CERTIFIED THAT THE DEPONENT,  
Shri/Smt./Km. Zulfiqar Ali  
Son/Wife of Shri Sardar Ali  
Residence No. 10, Sector 28  
Identified by Fingerprint. S. T. P. P.  
has voluntarily narrated his/her statement  
On 21.10.2021 in the presence of the  
examiner of the witness which have been  
made & explained to him/her are true &  
correct to his/her knowledge.

ATTESTED	
DATE	EXAMINER

13 JUL 2021. 123

True copy

47



CS NO. 955/19  
AZAM ALI @ ADAM ALI Vs. SHABANA

21.10.2021

**HEARD THROUGH PHYSICAL HEARING.**

Present :- Sh. Sanjay Tripathi, Ld. Counsel for plaintiff a/w plaintiff in person.

Sh. Mohd. Furqan, Ld. Counsel for defendant no. 1 and 2.

Application under Order 22 Rule 3 CPC filed on behalf of the plaintiff.

Reply, if any, be filed with advance copy to the opposite party before NDOH.

Ld. Counsel for defendant no. 1 and 2 again submits that defendant no. 2 has expired.

Plaintiff is directed to move an application for impleadment of LRs of defendant no. 2.

Put up for further proceedings on **07.02.2022**.

(ANURAG CHHABRA)

CIVIL JUDGE-03-C/THC

21.10.2021

25

ATTESTED	
DATE	EXAMINER

13 / 11 / 2021

True copy



CS SCJ 955/19  
AZAM ALI @ ADAM ALI Vs. SHABANA

07.02.2022

**HEARD THROUGH VIDEO CONFERENCING.**

Present :- Sh. Sanjay Tripathi, Ld. Counsel for plaintiff.  
Mohd. Furkan, Ld. Counsel for defendants.

Ld. Counsel for plaintiff submits that defendant no.2 has also expired. He is directed to move an application for impleadment of LRs of defendant no.2.

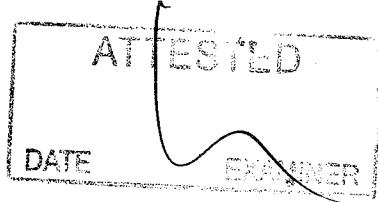
Put up for further proceedings on **26.04.2022**.

(ANURAG CHHABRA)

CIVIL JUDGE-03-C/THC

07.02.2022

27



13 JUL 2022

True copy

Annexure - P6  
49



CS NO. 955/19  
AZAM ALI @ ADAM ALI Vs. SHABANA

26.04.2022

Present :- Sh. Praveen Singh Negi, Ld Proxy counsel for plaintiff.  
Sh. Mohd. Furqan, Ld. counsel for defendant no. 1 and 2.

Application under Order 22 Rule 3 CPC is pending for disposal in the court.

Ld. Proxy counsel for plaintiff submits that main counsel is not available today. Therefore, it shall not be possible for him to argue on the above said application. Ld. Proxy counsel for plaintiff further submits that he has misplaced the details of the LRs of deceased defendant no. 2.

Ld. Counsel for defendant no. 1 and 2 submits that he shall supply the same to the plaintiff.

Put up for arguments on the application under Order 22 Rule 3 CPC as well as for further proceedings on **02.08.2022**.

(ANURAG CHHABRA)

CIVIL JUDGE-03-C/THC

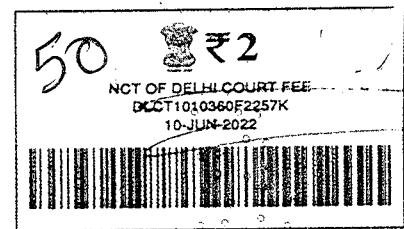
26.04.2022

29

ATTENDED	
DATE	EXAMINED
13 JUL 2022	

True copy

Annexure P7



IN THE COURT OF SENIOR CIVIL JUDGE, CENTRAL

TIS HAZARI COURT DELHI

CS NO. 955/19

IN THE MATTER OF:

AZAM ALI@ ADAM ALI

THROUGH ATTORNEY

.....PLAINTIFF

VS

SHABANA

....DEFENDANT NO 1

APPLICATION U/S 340 CRPC READ WITH SECTION 195 CRPC ON BEHALF OF THE

DEFENDANT NO 1

Most Respectfully showeth:

1. That the above said matter is pending before this Hon'ble court for the purpose of argument on application u/o 22 rule 3 CPC and fixed for 02.08.2022.
2. That the attorney namely Zulfiqar, has filed an application U/o 22 Rule 3 of CPC along with the affidavit where he stated that he is the only L.R of the Deceased Plaintiff. The said application is annexed herewith as Annexure A1.

3. That the above named attorney has committed perjury by deliberately omitting the material facts, concealing the facts that Late Azam Ali (Plaintiff) has 4 son and 1 daughter who are true L.R of the deceased. The name of L.Rs are given below:
  - a) Liaqat Ali R/o 2894 Gali Captain Wali Daryaganj Delhi
  - b) Imran Ali R/o 2894 Gali Captain Wali Daryaganj Delhi
  - c) Rehan Ali R/o 2894 Gali Captain Wali Daryaganj Delhi
  - d) Salman Ali R/o 2894 Gali Captain Wali Daryaganj Delhi
  - e) Shazia Begum
4. That the Attorney during the course of judicial proceeding has deliberately and consciously furnished the false information on affidavit and verification clause with the sole intention to misled the Hon'ble Court for undue, unjust and unwarranted gain and relief.
5. That the attorney has concealed the following material facts and information from Hon'ble Court which was in the actual and constructive Knowledge of the attorney and did not close the same.
  - i. That the attorney has the full knowledge that plaintiff has four son and 1 daughter who are the real and actual L.Rs of the deceased plaintiff. The copy of voter list showing the name of LRs is annexed herewith as **Annexure A2**.
6. It is therefore, Most respectfully prayed that the contempt proceeding be initiated against the attorney of the plaintiff and the Application u/s 340 CRPC read with 195 CrPC be taken into of taken consideration and FIR be Registered against Attorney of the Plaintiff for not disclosing the true facts and giving false information to the Court.

52 (3)

Any other order which the Hon'ble Court may deem fit and proper under the facts and circumstances may kindly be pleased in favour of the defendant and against the attorney of plaintiff.

DELHI

Date

DEFENDANT NO 1

THROUGH

Waiz Islam

(advocate)

53 (4)

IN THE COURT OF SENIOR CIVIL JUDGE, CENTRAL

TIS HAZARI COURT DELHI

CS NO. 955/19

IN THE MATTER OF:

AZAM ALI@ ADAM ALI

THROUGH ATTORNEY

.....PLAINTIFF

VS

SHABANA

....DEFENDANT NO 1

AFFIDAVIT

I, Shabana W/o Naseem Mirza aged about 63 yrs R/o 2230, Gali Pirji Wali Ahata Hajjan Bi Road Gran Delhi 110006, do hereby solemnly affirm and declare as under:

1. That the deponent is the defendant no 1 in the above noted case and as such he is well conversant with the facts of the case and competent to swear the present affidavit.
2. That the accompanying application has been drafted by my counsel under my instructions and the contents of the same has been read over to me in my vernacular, I have understood the same, which are true and correct to my knowledge.
3. That the contents of the accompanying application may be read as part and parcel of this affidavit as the same are not repeated herein for the sake of brevity.



Shabana  
Deponent

54  
(S)

VERIFICATION 3 02

Verified at Delhi on this day of 2022 that the contents of this affidavit are true to my knowledge. No part of it is false and nothing material has been concealed therefrom.

I identified the deponent who  
has Signed in my presence

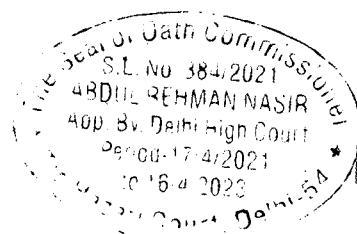
Identify  
by Adv.  
Waiz Islam

Shabana  
Deponent

STATE THAT THE DEPONENT  
Shri/Smt./Km..... Shabana  
S/o W/o D/o..... Naseem MIYAZ,  
R/o.....  
Identified by..... Waiz Islam before me a  
Delhi on 2 AUG 2022 o.....  
that the contents of the Affidavit which have  
been read and explained to him/her are true and  
correct to his/her knowledge.

Oath Commissioner Delh

2 AUG 2022



True copy



Annexure P-8  
(Copy) 55

IN THE COURT OF SH. ANURAG CHHABRA, A.S.C.J. TIS  
HAZARI COURT, CENTRAL DISTT., DELHI

IN THE MATTER OF:

AZAM ALI @ ADAM ... PLAINTIFF  
VERSUS  
SHABANA & ORS. ... DEFENDANTS

**APPLICATION UNDER ORDER 21 RULE (3) R/W SECTION 151  
CPC ON BEHALF OF LR'S OF PLAINTIFF**

Respectfully Showeth: -

1. That the above said case is pending before this Hon'ble Court and is fixed for further proceedings as plaintiff died on [redacted] and now the LR's of the plaintiff is filing the present application.
2. That the Plaintiff has expired leaving behind the following LR's
  - (a) Rehan Ali (Son)
  - (b) Shazia Begam (Wife) (A/o AZAM ALI)
  - (c) Imran Ali (Son)
  - (d) Liaqat Ali (Son)
  - (e) Salman Ali (Son)
3. That the right to sue still survive in favor of LR's of the Plaintiff and against the defendant.
4. That no prejudice shall be caused to the defendants if the application is allow.

**PRAYER**

It is therefore prayed that application of the LR's of the Plaintiff may kindly be allowed and they may be taken on record as the LR's of the Plaintiff, In the interest of Justice.

It is prayed accordingly,

Delhi

Date 2/08/2022

**SANJAY TRIPATHI**  
(Counsel)

IN THE COURT OF SH. ANURAG CHHABRA, A.S.C.J. TIS  
HAZARI COURT, CENTRAL DISTT., DELHI

IN THE MATTER OF:

AZAM ALI @ ADAM ... PLAINTIFF  
VERSUS  
SHABANA & ORS. ... DEFENDANTS

**AMENDED MEMOS OF PARTIES**

**Azam Ali (since deceased)**

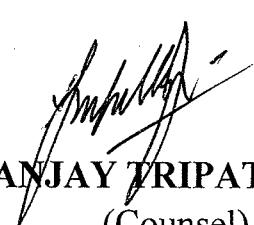
- (a) Rehan Ali (Son)
- (b) Shazia Begam (Wife) (*A/o AZAM ALI*)
- (c) Imran Ali (Son)
- (d) Liaqat Ali (Son)
- (e) Salman Ali (Son)

VERUSES

**Shabana & Ors.**

Delhi

Date *2/08/2022*

  
**SANJAY TRIPATHI**  
(Counsel)

True copy

CS SCJ 955/19  
AZAM ALI @ ADAM ALI Vs. SHABANA

02.08.2022

Present :- Sh. Sanjay Tripathi, ld. Counsel. Counsel for plaintiff.  
Sh. Waiz Islam, Ld. Counsel for defendant no.1.

Application under Order 21 Rule 3 CPC r/w Section 151 CPC filed on behalf of LRs of deceased plaintiff. Copy supplied.

Ld. Counsel for defendant no.1 submits that it is a second application moved on behalf of the plaintiff under Order 22 Rule 3 and the said application may not be considered by the court.

Reply, if any be filed with advance copy to the opposite counsel by the NDOH.

Perusal of file shows that defendant no.2 has also expired, no application for the impleadment of LR of defendant no.2 has been filed on behalf of the plaintiff. Application, if any be filed with advance copy to the opposite side before the NDOH.

Let the matter be put up for arguments on application under Order 22 Rule 3 CPC filed on behalf of the plaintiff today on

**06.10.2022.**

(ANURAG CHHABRA)

CIVIL JUDGE-03-C/THC

**02.08.2022**

True copy

Suit No. 955/19

Azam Ali Vs. Shabana

06.10.2022

Present: None for plaintiff.

Sh. S. Israily and Smt. Hala Quamar, Ld. Counsels for defendant no. 1 & 2.

Sh. Saif Mirza, one of the LRs of defendant no. 2.

None has appeared on behalf of plaintiff today.

No application has been filed on behalf of plaintiff to implead the legal heirs of deceased defendant no. 2.

Arguments heard on behalf of defendant no. 1 on application under order 22 rule 3 CPC filed on behalf of plaintiff.

Right of the plaintiff to advance arguments on the above said application stands closed.

Put up for orders on the said application on 02.11.2022.

(ANURAG CHHABRA)  
CJ-03 : Central : THC : Delhi.  
06.10.2022.

True copy



59

Annexure-P-10  
(Copy)

IN THE HON'BLE COURT OF SH. ANURAG CHHABRA, LD. A.S.C.J.,  
DISTT. CENTRAL, TIS HAZARI COURTS, DELHI.

IN THE MATTER OF:

AZAM ALI @ ADAM ...PLAINTIFF

VERSUS  
SHABANA & ORS. ...DEFENDANTS

APPLICATION ORDER UNDER 22 RULE (4) R/W SECTION 151 CPC  
ON BEHALF OF THE LR'S OF THE DEFENDANT

MOST RESPECTFULLY SHOWETH:

1. That the above said case is pending before this Hon'ble Court and fixed for further proceeding on 22.10.2022.
2. That the defendant no.2 has expired on 06.04.2021 and the same came to be known to the plaintiff in the last date of hearing.
3. That the defendant no.2 has expired living behind the following LR's
  - a) Md. Arif Khan (Husband)
  - b) Md. Kashif Khan (Son)
  - c) Md. Asim Khan (Son)
  - d) Farha (Daughter)

That right to defend still survive in favour of LR's of the defendant.

PRAYER

It is therefore prayed that application of the LR's of the Defendant may kindly be allowed and they may be taken on record as the LR's of the Defendant, in the interest of Justice.

DELHI:

DATED: 22/10/2022

THROUGH

*[Signature]*  
PLAINTIFF

*[Signature]*  
SANJAY TRIPATHI  
(Counsel)

IN THE HON'BLE COURT OF SH. ANURAG CHHABRA, LD. A.S.C.J.,  
DISTT. CENTRAL, TIS HAZARI COURTS, DELHI.

IN THE MATTER OF:

AZAM ALI @ ADAM ... PLAINTIFF

VERSUS  
SHABANA & ORS. ... DEFENDANTS

**AMENDED MEMO OF PARTIES**

**Azam Ali (Since Deceased)**

- a) Rehan Ali (Son)
- b) Shazia Begam (Daughter)
- c) Iram Ali (Son)
- d) Liaqat Ali (Son)
- e) Salman Ali (Son)

VERSUS

Shabana & ORs.

Husna Begum (Since Deceased Defendant No. 2 through LR's)

- a) Md. Arif Khan (Husband)
- b) Md. Kashif Khan (Son)
- c) Md. Asim Khan (Son)
- d) Farha (Daughter)

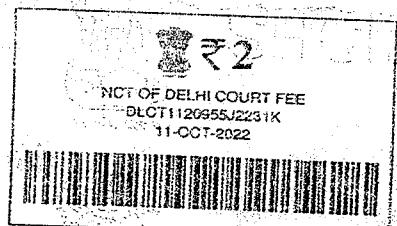
DELHI:  
DATED: 22/10/2022

THROUGH

Zafir Ali,  
PLAINTIFF

*shubhankar*  
SANJAY TRIPATHI  
(Counsel)

True copy



61

IN THE HON'BLE COURT OF SH. ANURAG CHHABRA, LD. A.S.C.J.,  
DISTT. CENTRAL, TIS HAZARI COURTS, DELHI.

CS (OS) 955/ 2019

IN THE MATTER OF:

AZAM ALI @ ADAM

...PLAINTIFF

VERSUS

SHABANA & ORS.

...DEFENDANTS

D.O.H. :02.11.2022

APPLICATION UNDER SECTION 5 OF LIMITATION ACT READ  
WITH SECTION 151 C.P.C FILED BY THE LR'S OF PLAINTIFF TO  
CONDON THE DELAY FOR FILING THE APPLICATION UNDER  
ORDER 22 RULE 3 & 4

MOST RESPECTFULLY SHOWETH;

1. That the present case is pending before this Hon'ble Court and fixed for the further proceeding.
2. That the Counsel of the plaintiff was medically not fit during the period of COVID and suffered from the heart attack after the post COVID period, this caused the delay in filing the above said application which is not deliberate or done intentionally, moreover in order to satisfy the court, the counsel of the LR's of plaintiff is also ready to put documentary proof along with the medical documents of the counsel.

3. That the counsel of the LR's of plaintiff has duly appeared in all the appearances of this court and in interest of justice, the right of the petitioner shall not be abated in the interest of justice.
4. That the counsel of LR's of the petitioner submits that all the LR's of the petitioner can be presented before this Hon'ble Court to satisfy the queries of the Hon'ble Court.
5. That the delay to filing the ~~written statement~~ <sup>the above said application</sup> is neither intentionally nor deliberately but due to the above-said reason.

### PRAYER

It is prayed to this Hon'ble Court may kindly be allowed the application of the LR's of the plaintiff and Condon the delay in the filing the above said mentioned application, in the interest of justice.

DELHI  
DATED: 2/11/2022

THROUGH

PLAINTIFF

SANJAY TRIPATHI  
(Counsel)

True copy

**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL REVISIONARY JURISDICTION)**

CM No. \_\_\_\_\_ /2023

IN

C.R.P. No. \_\_\_\_\_ /2023

**IN THE MATTER OF:**

Shabana and Ors

...Petitioners

Versus

Azam Ali @ Adam Ali  
(Since deceased) Through LRs

...Respondents

**APPLICATION U/S 151 CPC SEEKING AD INTERIM EX PARTE STAY ON TRIAL OF THE CASE IN SUIT CS SCJ NO. 995/2019 TITLED AS “AZAM ALI @ ADAM ALI V SHABANA AND ORS” PENDING ADJUDICATION BEFORE THE LD.TRIAL COURT DURING THE PENDENCY OF THE PRESENT CASE**

To,

The Hon’ble Chief Justice and their Lordship’s Companion Justices of the Hon’ble High Court of Delhi at New Delhi  
The Humble application of the above named Petitioners.

**MOST RESPECTFULLY SHOWETH:**

1. That the Petitioners have filed the accompanying petition under section 115 of CPC assailing impugned order dated 30.01.23 passed by the Court of Sh. Anurag Chhabra, Ld. CJ-03 (Central) Tis Hazari Courts, Delhi in CS SCJ No. 995/2019 titled as “Azam Ali @ Adam Ali v Shabana And Ors”

₹10  
NCT OF DELHI COURT FEE  
BLCT02299831EP234K  
02-MAY-2023



2. That for the reasons and submissions made in the accompanying Petition, the Petitioners have a good *prima facie* case and there is every likelihood of non suiting the Respondents/Plaintiff.
3. That for the reasons and submissions made in the accompanying writ, it is submitted that in case the *ad interim* relief as prayed herein is not granted to the Petitioners, they are bound to suffer irreparable loss.
4. That for the reasons and submissions made in the accompanying writ, the balance of convenience also lies in favour of the Petitioners.
5. That to meet the ends of justice, the humble Petitioners, request that this Hon'ble Court may most graciously be pleased to pass *ad interim* relief as prayed for.

#### **PRAYER**

In view of the facts and circumstances of the present case, this Hon'ble Court may most graciously be pleased to:

- A. Allow the present application and stay the trial in CS SCJ No. 995/2019 titled as "*Azam Ali @ Adam Ali v Shabana And Ors*" pending adjudication in the Court of Sh. Anurag Chhabra, Ld. CJ-03 (Central) Tis Hazari Courts, Delhi during the pendency of the present case.
- B. Pass any other or further order as this Hon'ble Court may deem fit and proper in facts and circumstances of the present.

FOR THIS ACT OF KINDNESS THE MOST HUMBLE  
PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

NEW DELHI  
DATED: 02/05/2023



PETITIONERS

THROUGH



**M.MOHSIN ISRAILY & ASSOCIATES**  
*ADVOCATES FOR THE PETITIONERS*  
CHAMBER NO. 411, BLOCK-III,  
DELHI HIGH COURT, NEW DELHI  
CONTACT NO. 9711581097/9312541696  
EMAIL ADDRESS: Israilylawoffices@gmail.com

**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL REVISIONARY JURISDICTION)**

CM No. \_\_\_\_\_ /2023

IN

C.R.P. No. \_\_\_\_\_ /2023

**IN THE MATTER OF:**

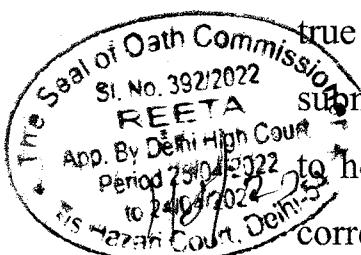
Shabana and Ors ...Petitioners

Versus

Azam Ali @ Adam Ali  
(Since deceased) Through LRs ...Respondents

I, Shabana W/o Nazim Mirza aged about 50 years R/o House No. 2555, Gali Pirji Wali, Ahata Hajjan Bi Rodgran, Delhi-110006, do hereby solemnly affirm and declare as hereunder:-

1. That the deponent is one the Petitioner in the above note case as such she is well conversant with the facts of the case and competent to swear the present affidavit in support of her accompanying Application.
2. That the accompanying Application has been drafted by my counsel on the basis of instructions and documents supplied to him by the deponent. The contents of the said Writ/Application have been read over and explained to her in her vernacular. The Deponent has understood the contents thereof; the same are true and correct to the best of her knowledge. The Legal submissions made therein are as per the legal advice rendered to her by her counsel and the deponent believed the same are correct and legally sound.
3. That the annexures filed in accompanying the Application are true copies of its original.



4. That the contents of the accompanying Application are not being repeated here for the sake of brevity, however, the contents of the Application be read in part and parcel of this affidavit.



DEPONENT

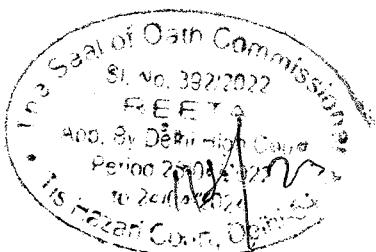
### VERIFICATION

Verified at New Delhi on this ~~MAY 10, 2023~~ day of February, 2023, that the contents of Para 1 to 4 of this affidavit are true and correct to my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.



DEPONENT

CERTIFIED THAT THE DEPONENT  
 Shri/Smt./K.m..... S. No. 392/2022  
 S/o W/o D/o.....  
 R/o.....  
 CERTIFIED ON 01 MAY 2023  
 I certify that the contents of the affidavit which have  
 been read and explained to him are true and  
 correct to his knowledge  
 Delhi on..... 01 MAY 2023  
 The contents of the affidavit which have  
 been read and explained to him are true and  
 correct to his knowledge  
 Rats  
 Oath Commissioner Date  
 01 MAY 2023



**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL REVISIONARY JURISDICTION)**

CM No. \_\_\_\_\_ /2023

IN

C.R.P. No. \_\_\_\_\_ /2023

**IN THE MATTER OF:**

Shabana and Ors

...Petitioners

Versus

Azam Ali @ Adam Ali

(Since deceased) Through LRs

...Respondents

**APPLICATION U/S 151 CPC FROM EXEMPTION FROM  
FILING CERTIFIED COPIES OF IMPUGNED ORDERS  
LEGIBLE ANNEXURES AS PER DELHI HIGH COURT  
RULES**

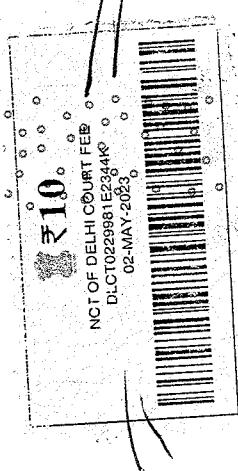
To,

The Hon'ble Chief Justice and their Lordship's Companion  
Justices of the Hon'ble High Court of Delhi at New Delhi

The Humble application of the above named Petitioner.

**MOST RESPECTFULLY SHOWETH:**

1. That the Petitioners have filed the accompanying petition under section 115 of CPC assailing impugned order dated 30.01.23 passed by the Court of Sh. Anurag Chhabra, Ld. CJ-03 (Central) Tis Hazari Courts, Delhi in CS SCJ No. 995/2019 titled as "*Azam Ali @ Adam Ali v Shabana And Ors*"
2. That the Petitioners have filed some annexures with the accompanying petition which are a little dim but readable



annexures. Few of the said annexures are also lacking proper margin as permitted by this Hon'ble Court.

3. That as per the rules of this Hon'ble High Court, the Petitioner is required to file legible version of the annexures with appropriate margin. Since there is an urgency in the matter, therefor legible versions of the annexures with appropriate margins may be dispensed with as the Petitioner has filed true typed copy of each annexure with margins and as per rules of this Hon'ble Court.
4. That the annexure filed by the Petitioner with the accompanying petition be considered at the time of the hearing of the arguments and the Petitioners may be exempted from filing the legible annexures with appropriate margins.

#### **PRAAYER**

In view of the facts and circumstances of the case, this Hon'ble Court may most graciously be pleased to:

- A. Allow the instant application and exempt the Petitioner from filing certified copies of impugned orders, appropriate margins and legible versions of the annexures and hear the arguments by considering the annexures filed by the Petitioner along with the Petition.
- B. Pass any other or further order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.

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FOR THIS ACT OF KINDNESS THE MOST HUMBLE  
PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

NEW DELHI  
DATED: 02/05/2023

  
PETITIONERS

THROUGH



**M.MOHSIN ISRAILY & ASSOCIATES**  
*ADVOCATES FOR THE PETITIONERS*  
CHAMBER NO. 411, BLOCK-III,  
DELHI HIGH COURT, NEW DELHI  
CONTACT NO. 9711581097/9312541696  
EMAIL ADDRESS: [Israelylawoffices@gmail.com](mailto:Israelylawoffices@gmail.com)

71

**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL REVISIONARY JURISDICTION)**

CM No. \_\_\_\_\_/2023

IN

C.R.P. No. \_\_\_\_\_/2023

**IN THE MATTER OF:**

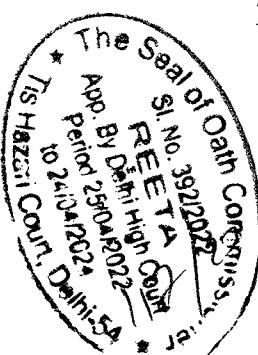
Shabana and Ors ...Petitioners

Versus

Azam Ali @ Adam Ali  
(Since deceased) Through LRs ...Respondents

I, Shabana W/o Nazim Mirza aged about 50 years R/o House No. 2555, Gali Pirji Wali, Ahata Hajjan Bi Rodgran, Delhi-110006, do hereby solemnly affirm and declare as hereunder:-

1. That the deponent is one the Petitioner in the above note case as such she is well conversant with the facts of the case and competent to swear the present affidavit in support of her accompanying Application.
2. That the accompanying Application has been drafted by my counsel on the basis of instructions and documents supplied to him by the deponent. The contents of the said Writ/Application have been read over and explained to her in her vernacular. The Deponent has understood the contents thereof; the same are true and correct to the best of her knowledge. The Legal submissions made therein are as per the legal advice rendered to her by her counsel and the deponent believed the same are correct and legally sound.
3. That the annexures filed in accompanying the Application are true copies of its original.



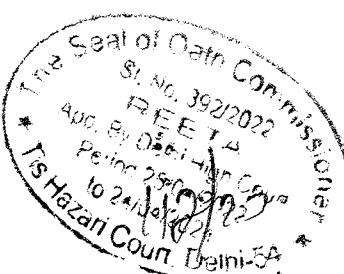
4. That the contents of the accompanying Application are not being repeated here for the sake of brevity, however, the contents of the Application be read in part and parcel of this affidavit.

*Shabir*  
DEPONENT

### VERIFICATION

Verified at New Delhi on this      day of February, 2023, that the contents of Para 1 to 4 of this affidavit are true and correct to my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

*Shabir*  
DEPONENT



CERTIFIED THAT THE DEPONENT  
 Shri/Smt./Km. *Shabir*, dated 29  
 Slo W/o D/o. *A/P.O.*  
 P.O. *1st Hazari Colony*,  
 Date *01 MAY 2023*  
 identified by *S.P. Bramley*  
 has solemnly deposed and sworn  
 that the contents of the affidavit which have  
 been read and explained to him are true and  
 correct to his knowledge.  
*Rector*  
 Oath Commissioner Date  
*01 MAY 2023*

**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL REVISIONARY JURISDICTION)**

CM No. \_\_\_\_\_ /2023

IN

C.R.P. No. \_\_\_\_\_ /2023

**IN THE MATTER OF:**

Shabana and Ors

...Petitioners

Versus

Azam Ali @ Adam Ali

(Since deceased) Through LRs

...Respondents

**APPLICATION U/S 5 OF THE LIMITATION ACT R/W  
S.151 CPC FOR CONDONATION OF DELAY OF 2 DAY IN  
FILING THE PRESENT PETITION**

To,

The Hon'ble Chief Justice and their Lordship's Companion  
Justices of the Hon'ble High Court of Delhi at New Delhi

The Humble application of the above named Petitioners.

**MOST RESPECTFULLY SHOWETH:**

1. That the Petitioners have filed the accompanying petition under section 115 of CPC assailing impugned order dated 30.01.23 passed by the Court of Sh. Anurag Chhabra, Ld. CJ-03 (Central) Tis Hazari Courts, Delhi in CS SCJ No. 995/2019 titled as "*Azam Ali @ Adam Ali v Shabana And Ors.*"
2. That there has been a delay of 1 day in filing the accompanying revision petition as the period of limitation expired on 01.04.2023. It is however submitted that the delay in filing the same occurred on account of the fact that Petitioners could not obtain signatures of one of the Petitioners who has indisposed. Thereafter, the petition was settled and ultimately filed on **03/05/23**. As such the delay of **2** day in filing the accompanying petition is neither deliberate nor intentional but on account reasons as stated above.

3. That no prejudice would be caused to the Respondents, in case, this Hon'ble Court is pleased to condone the delay as prayed for.
4. That the present application is made *bonafide* and nothing material has been concealed therefrom.

**PRAYER**

In view of the facts and circumstances of the present case, this Hon'ble Court may most graciously be pleased to:

- A. Allow the present application and condone the delay of 2 day in filing the accompanying revision petition.
- B. Pass any other or further order as this Hon'ble Court may deem fit and proper in facts and circumstances of the present.

**FOR THIS ACT OF KINDNESS THE MOST HUMBLE  
PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.**



NEW DELHI

PETITIONERS

DATED: 03/05/2023

THROUGH

A large, handwritten signature in black ink, which appears to be the name of the law firm.

**M.MOHSIN ISRAILY & ASSOCIATES  
ADVOCATES FOR THE PETITIONERS  
CHAMBER NO. 411, BLOCK-III,  
DELHI HIGH COURT, NEW DELHI  
CONTACT NO. 9711581097/9312541696  
EMAIL ADDRESS: [Israilylawoffices@gmail.com](mailto:Israilylawoffices@gmail.com)**

**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL REVISIONARY JURISDICTION)**

CM No. \_\_\_\_\_ /2023

IN

C.R.P. No. \_\_\_\_\_ /2023

**IN THE MATTER OF:**

Shabana and Ors

...Petitioners

Versus

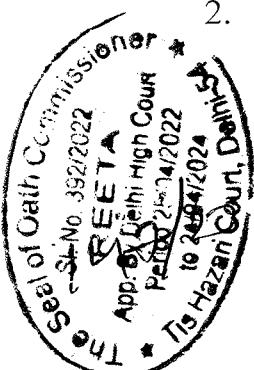
Azam Ali @ Adam Ali

(Since deceased) Through LRs

...Respondents

I, Shabana W/o Nazim Mirza aged about 50 years R/o House No. 2555, Gali Pirji Wali, Ahata Hajjan Bi Rodgran, Delhi-110006, do hereby solemnly affirm and declare as hereunder:-

1. That the deponent is one the Petitioner in the above note case as such she is well conversant with the facts of the case and competent to swear the present affidavit in support of her accompanying Application.
  
2. That the accompanying Application has been drafted by my counsel on the basis of instructions and documents supplied to him by the deponent. The contents of the said Writ/Application have been read over and explained to her in her vernacular. The Deponent has understood the contents thereof; the same are true and correct to the best of her knowledge. The Legal submissions made therein are as per the legal advice rendered to her by her counsel and the deponent believed the same are correct and legally sound.
  
3. That the annexures filed in accompanying the Application are true copies of its original.



4. That the contents of the accompanying Application are not being repeated here for the sake of brevity, however, the contents of the Application be read in part and parcel of this affidavit.

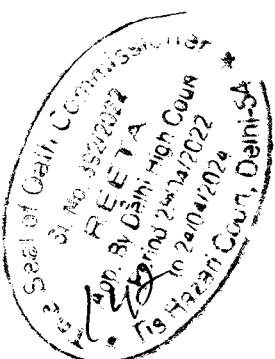
*Shabir*  
DEPONENT

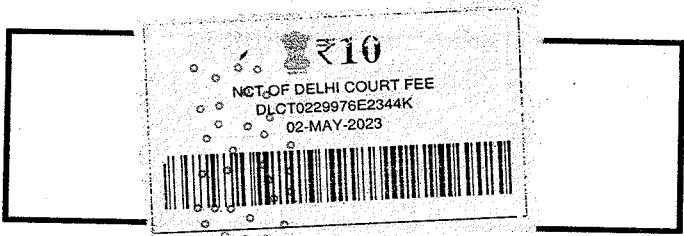
VERIFICATION

Verified at New Delhi on this 24<sup>th</sup> day of April, 2023, that the contents of Para 1 to 4 of this affidavit are true and correct to my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

*Shabir*  
DEPONENT

CERTIFIED THAT THE DEPONENT  
 Shri Smt. .... *Sheren* HE DEPONENT  
 S/o Who D/o ..... *Md. Ali Muzam*  
 F/o ..... *S. S. Deo*  
 I certify that he has so stated before me and do solemnly declare and affirm that the contents of the affidavits which have been read and explained to him are true and correct to his knowledge *Reete*  
 Oath Commissioner Deo





FIR No. .... C. No. ....

U/S. ....

P. S. ....

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**IN THE COURT OF HON'BLE HIGH COURT OF DELHI AT NEW DELHI**

Suit / Appeal No. \_\_\_\_\_ JURISDICTION OF 202

In re:-

Shabana & ORS

<u>Plaintiff(s)</u>	<u>Or Petitioner(s)</u>
<u>Appellant(s)</u>	<u>Complainant(s)</u>

**VERSUS**

Azam Ali @ Adam Ali (since deceased) Defendant(s) / Respondent(s) / Accused

KNOW ALL to whom these Present shall Come that I / We Through LRs Shabana, Mohd Arif, Mohd Kashif, Mohd Asim, Ms. Farha R/o 3618, 2<sup>nd</sup> Floor, Stguru Bhawan Daryaganj Delhi - 110002

The above named petitioners do hereby appoint

S. I. Israely Advocate  
ch. No. 411, Block-II, Delhi  
High Court, New Delhi  
Mob. 9711581097 | Enrol. No. D/533/2017

WAIZ ISLAM  
B.A. LL.B, LL.M (JMI)  
Enrol. No. D/5373/2017  
2182, Rod Gran,  
Lal Kuan, Delhi-110006

M. M. Israely  
ch. No. 411, Block-II  
Delhi High Court  
Enrol. No. 378/01

(herein after called the advocate/s) to be my / our Advocate in the above - noted case authorize him:-

To act, appear and plead in the above-noted case in this court or in any other court in which the same may be tried or heard and also in the appellate court including High Court subject to payment of fees separately for each court by me / us.

To sign file, verify and present pleadings, appeals cross-objections or petitions for executions review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages subjects to payment of fees for each stage.

To file and take back documents, to admit and/or deny the documents of opposite party.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings on paying separate fee.

To deposit, draw and receive money, cheques, cash and grant receipts hereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution on the said case.

To appoint and instruct any other Legal Practitioner authorising him to exercise the power and authority hereby conferred upon the Advocate whenever he may think fit to do so and to sign the power of attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purpose.

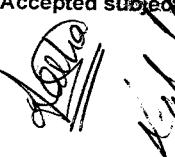
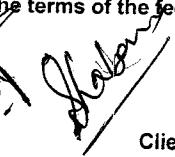
And I/We undertake that I/We or my/our duly authorised agent would appear in court on all hearings and will in for the Advocate for appearance when the case is called.

And I/We undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the court shall be of the Advocate which he shall receive and retain for himself.

And I/We undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up.

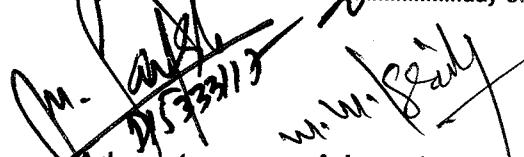
The fee settle is only for the above case and above Court. I / We hereby agree that once the fee is paid, I / We will not be entitled for the refund of the same in any case whatsoever and if the case prolongs for more than 3 years the original fee shall be paid again by me/ us.

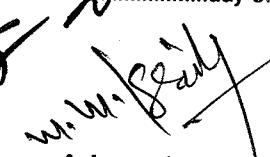
IN WITNESS WHERE OF I / We do hereunto set my/our hand to these presents the contents of which have been understood by me/ us on this 20<sup>th</sup> day of April 2023 Accepted subject to the terms of the fees.

 Client  
 Client  
 Client

I Identify The Signature/ Thumb Impression Of Below Mentioned Person,

Who Has Been Signed In My Presence. The Client.

 Advocate

 Advocate

78

ED296296706190IN IVR:6968296706190  
SP DELHI GPO (110006)  
Counter No:2,02/05/2023,17:11  
To:REHAN ALI, AIZAHALI 3310 1-2  
PIN:110006, Delhi GPO  
From:N M ISRIL,CH NO. 411 BLOCK  
Wt:62gms  
Amt:29.50(Cash)Tax:4.50  
<Track on [www.indiapost.gov.in](http://www.indiapost.gov.in)  
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Counter No:2,02/05/2023,17:11  
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PIN:110006, Delhi GPO  
From:M ISRIL,CH NO. 411 BLOCK  
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(Track on [www.indiapost.gov.in](http://www.indiapost.gov.in))  
(Dial 18002668688) (Wear Masks,

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Amt:29.50(Cash)Tax:4.50  
(Clark on [www.indianpost.gov.in](http://www.indianpost.gov.in))

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SP DELHI GPO «110006»  
Counter No:2,02/05/2023,17:11  
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Wt:60gms  
Amt:29.50(Cash)Tax:4.50  
(Check on [www.indiaspeedi.gov.in](http://www.indiaspeedi.gov.in))  
(Dial 18002666868) (Wear Masks,

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Counter No:2,02/05/2023,17:11  
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PIN:110006, Delhi GPO  
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Wt:60gms  
Amt:29.50 [Cash] Tax:4.50  
(Track on [www.indiabudget.gov.in](http://www.indiabudget.gov.in))  
(Pin: 18002211888) (Near Mats)

India Post

ED929979994 IN ITR:6968929979994  
SP DELHI GPO <110006>  
Counter No:7,02/05/2023,17:11  
To:MRMAN ALI,3310 1-ZND FLOOR  
PIN:110006, Delhi GPO  
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Wt:60gms  
Amt:29.50(Cash)Tax:4.50  
✓Track on [www.indianpost.gov.in](http://www.indianpost.gov.in)

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