IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No. 2 of 2016
Decided on : 23.09.2026

Munshi & others ...Appellants.

Versus

Lal Deen (since deceased)
through his LRs and others .....Respondents.

Coram
Hon'ble Mr. Justice Romesh Verma, Judge.
Whether approved for reporting?[1]

For the appellants: Mr. Ajay Kumar Dhiman, Advocate.

For the respondents: Mr. Karan Singh Kanwar, Senior Advocate with Ms. Upasana Thakur, Advocate.

Romesh Verma, Judge(oral)

The instant appeal has been filed against the judgment and decree passed by the learned Additional District Judge, Nahan, District Sirmaur, H.P., dated 26.07.2013, whereby the appeal filed by the appellants/defendants was dismissed and the judgment and decree passed by the learned Civil Judge (Jr. Div.), Court No. 2, Paonta Sahib, District Sirmaur, H.P., dated 22.06.2010, was affirmed, whereby the suit filed by the respondents/plaintiffs was decreed.

2. This Court, on 18th September, 2026, had passed the following order:

[1] Whether reporters of Local Papers may be allowed to see the judgment?

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"It is contended by the learned counsel for the appellant that the dispute primarily in the present case is that the impugned judgment has been passed by the learned Additional District Judge, Sirmaur, dated 26.07.2013, against dead persons. He submitted that appellant No.5 before the learned First Appellate Court, namely Smt. Bhukri, expired on 22.02.2012 and respondent No.7, Shri Gulam Deen, expired on 04.06.2013. He submitted that since the impugned judgment came to be passed on 26.07.2013, after the death of appellant No.5 and respondent No. 7, therefore, in view of the mandate as laid down by the Hon'ble Supreme Court, the judgment is a nullity.

Faced with this situation, Ms. Upasna Thakur, learned counsel, submitted that the matter has to be argued by Mr. Karan Singh Kanwar, learned Senior Counsel.

At her request, list the matter on 23.09.2026."

3. Today, it has been fairly conceded by the learned Senior Counsel for the respondents that appellant No. 5, namely Smt. Bhukri, had expired on 22nd February, 2012, and respondent No. 7, Sh. Gulam Deen, had expired on 4th June, 2013, prior to the passing of the impugned judgment by the learned Additional District Judge, Sirmaur, District at Nahan, dated 26th July, 2013.

4. It is well settled principle of law that judgment passed in favour or against the dead person is a nullity. As in the present case when the appeal was finally decided on the said date, appellant No. 5 and respondent No. 7 have already died. Therefore, the impugned judgment as passed by the First Appellate Court is not sustainable.

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5. The said exposition of law has been laid down by the Hon'ble Apex Court in ***'Gurnam Singh (Dead) through Legal Representatives & Ors. Vs. Gurbachan Kaur (Dead) by Legal Representatives' (2017), 13 SCC 414*,** wherein it has been observed, in para No.21, as under:-

> *"It is a fundamental principle of law laid down by this Court in Kiran Singh's case (supra) that a decree passed by the Court, if it is a nullity, its validity can be questioned in any proceeding including in execution proceedings or even in collateral proceedings whenever such decree is sought to be enforced by the decree holder. The reason is that the defect of this nature affects the very authority of the Court in passing such decree and goes to the root of the case. This principle, in our considered opinion, squarely applies to this case because it is a settled principle of law that the decree passed by a Court for or against a dead person is a 'nullity'."*

6. The said fact is duly acknowledged by the learned counsel for the parties.

7. Consequently, this Court has no other option but to quash and set aside the impugned judgment passed by the learned Additional District Judge, Sirmaur District at Nahan dated 26th July, 2013, and relegate the parties to the Court of learned First Appellate Court to decide the appeal afresh.

8. It is contended by the learned counsel for the appellants that since the substitution of the legal representatives of the deceased parties has already taken place before this Court,

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therefore, the First Appellate Court be directed to take the amended cause title on record and adjudicate the case in hand afresh.

9. The parties agree to appear before the learned First Appellate Court on **5th October, 2026**, on which date the parties shall appear before the said Court.

10. It is further submitted by the learned learned counsel for the respondents that since the Civil Suit pertains to the year 2003, appropriate directions be issued to the First Appellate Court to decide the appeal expeditiously.

11. Acceding to the said request, the learned First Appellate Court is directed to decide the appeal afresh, preferably within a period of eight months from today.

12. With these observations, appeal stands disposed of, in aforesaid terms, so also the pending miscellaneous application, if any.

13. Record be sent back immediately.

A copy of this judgment be transmitted to the learned First Appellate Court for record.

(Romesh Verma)
Judge

September 23, 2026
(Nisha)

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