
(2021) 06 SHI CK 0023

In the High Court Of Himachal Pradesh

Case No : Regular Second Appeal No. 88 Of 2004, Civil Miscellaneous Petition
No. 5944 Of 2021

Prem Singh

APPELLANT

Vs

Sumitra Devi & Others

RESPONDENT

Date of Decision : 14-06-2021

Acts Referred:

Citation : (2021) 06 SHI CK 0023

Hon'ble Judges : Sureshwar Thakur, J

Bench : Single Bench

Advocate : O. C. Sharma

Final Decision : Disposed Of

Judgement

Sureshwar Thakur, J

1. A perusal of the death certificate, appended with CMP No. 5944 of 2021, discloses that, the demise of one Kirpi Devi, arrayed as, co-appellant

No. 2, in, Civil Appeal No. 24ADJÂII/13 of 2019, occurred on 10.8.2020. However, the learned First Appellate Court pronounced the verdict, upon,

the afore appeal on 26.2.2021, hence her demise occurred during pendency of the afore first appeal. Obviously, since the counsel for the appellants

before the learned first Appellate Court, did not make any motion therebefore, for, either seeking her deletion from the array of appellants, or, hers

being substituted by her LRs, rather hence retained her as co-appellant No.2, in the array of parties, in Civil Appeal No. 24ADJÂII/13 of 2019.

Consequently, the retention of co-appellant No.2, in the array of parties, in the afore appeal, is, obviously a pervasive vice The further sequel thereof

is that the application bearing CMP No. 5944 of 2021 is neither maintainable

before this Court nor any affirmative decision can be passed thereon.

Therefore, the instant application is dismissed. However, liberty reserved to the applicant to make a motion before the learned First Appellate Court,

for, deletion of the name of co-appellant No.2 in the afore appeal or to get her substituted by her LRs.

2. Consequently, the verdict pronounced by the learned first Appellate Court, upon, Civil Appeal No. 24ADJÂII/13 of 2019, is, a nonest or is a nullity

in the eye of law, and, is accordingly quashed and set aside.

3. The learned first Appellate Court is directed to, upon, receiving an appropriate application, make a decision thereon, in accordance with law, and,

thereafter proceed to make a fresh decision, in accordance with law, also upon, Civil Appeal No. 24ADJÂII/13 of 2019. All pending applications, if

any, also stand disposed of.