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**(2021) 09 SHI CK 0114**

**In the High Court Of Himachal Pradesh**

**Case No : Regular Second Appeal. 166 Of 2021**

Roshan Lal

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

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**Date of Decision : 30-09-2021**

**Acts Referred:**

**Citation : (2021) 09 SHI CK 0114**

**Hon'ble Judges : Sureshwar Thakur, J**

**Bench : Single Bench**

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## **Judgement**

Sureshwar Thakur, J

1. Heard. CMP(M) No. 788 of 2021, as, preferred before this Court, reveals that the demise of one Prithi Chand has occurred on 04.05.2020. The learned First Appellate Court made its decision on 19.04.2021, upon, Civil Appeal No. 3 of 2020. Consequently, the demise of Prithi Chand, co-respondent No.7, occurred during the pendency of Civil Appeal No. 03 of 2020, before the learned First Appellate court. However, the counsel concerned, did not make, the appropriate motion before the learned First Appellate Court, for seeking substitution of the afore deceased litigant, by his legal heirs. Contrarily, despite the demise of the afore, occurring during the pendency of Civil Appeal No. 3 of 2020, before the learned first Appellate Court, he remained unsubstituted by his legal heirs. Therefore, the decision made on 19.04.2021, upon, Civil Appeal no. 3 of 2020, is void, ab initio, as it has been rendered against deceased unsubstituted co-respondent No.7, one Prithi Singh. As a result, the extant RSA is disposed of, and, the verdict made by the learned First Appellate Court on 19.04.2021, upon, Civil Appeal No. 3 of 2020, is quashed and set aside. Consequently, the extant lis is remanded to the learned First Appellate Court with a direction to, after the counsel concerned, expeditiously preferring an appropriate application before it, seeking substitution of the afore deceased litigant by his legal heirs, to decide the same within two weeks, and subsequently, the learned first appellate court is directed to within six weeks thereafter, also record a fresh decision upon the

appeal concerned. All pending applications also stand disposed of.