

(2017) 02 SHI CK 0013
In the High Court Of Himachal Pradesh
Case No : 10508 of 2016

Suresh Kumar

APPELLANT

Vs

Som Nath and others

RESPONDENT

Date of Decision : 28-02-2017

Acts Referred:

Citation : (2017) 02 SHI CK 0013

Hon'ble Judges : Sureshwar Thakur

Bench : Single Bench

Advocate : Seema K. Guleria, Pawan Gautam

Judgement

1. The learned counsel for the applicant has placed on record, the death certificate of deceased corespondent No. 14, one Ms. Maya Devi, perusal whereof unfolds qua her demise occurring during the pendency of a first appeal before the learned First Appellate Court whereat she remained unsubstituted by her LR's. Consequently the application at hand, for her name being ordered to be deleted from the array of co-respondents is not maintainable hereat, conspicuously when the learned First Appellate Court whereat her demise occurred alone enjoys the jurisdictional competence to pronounce an order either for her substitution by her LR's or qua her name being deleted from the array of co-respondents. Therefore, the instant application for ordering the deletion of the name of co-respondent No.14 is dismissed, as not maintainable. However, it is open for the learned counsel for the applicant to make an appropriate motion before the learned first Appellate Court, for facilitating it to pronounce an appropriate order thereupon. Dehors the above, given the continuation of the name of deceased co-respondent No.14 in the array of co-respondents in the memo of parties of the impugned verdict pronounced by the learned First Appellate Court also given hers remaining not ordered to be substituted by her LR's nor hers standing ordered to be deleted from the array of co-respondents in the memo of parties of the impugned verdict, ingrains it with a vice of nullity, it standing pronounced against deceased co-respondent No.14. Consequently, the

instant appeal is allowed. The impugned verdict of the learned First Appellate Court is quashed and set aside. The matter is remanded to the learned First Appellate Court, to, after pronouncing an adjudication on an application preferred therebefore for the relevant purpose, proceed to decide the appeal afresh. The parties are directed to appear before the learned First Appellate Court on 14.3.2017.