

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No. 478 of 2018
Date of decision: 18.08.2026

Karam Dev & others ...Appellants.

Versus

Ranjeet Singh & others ...Respondents.

Coram:

The Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?¹

For the appellants : Mr.Varun Chandel, Advocate.

For the respondents : Mr. Neeraj Gupta, Senior Advocate
with Mr. Pranjal Munjal, Advocate, for
respondents No.2 and 3.

Mr. Amit K. Dhumal, Advocate, for
respondent No.45(d).

Mr. Praneet Gupta, Advocate, for
respondents No.47 and 49.

None for other respondents.

Romesh Verma, Judge (Oral):

The instant regular second appeal has been filed against the judgment and decree as passed by the learned Additional District Judge, Ghumarwin, District Bilaspur, dated 30.12.2017, whereby the appeal filed by the present appellants was dismissed and the judgment and decree as passed by the learned Civil Judge (Senior Division), Court No.1, Ghumarwin, dated 30.06.2011, was affirmed, whereby the suit filed by the plaintiffs-appellants came to be dismissed.

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

2. The facts, as emerge in the present case, are that the plaintiffs-appellants filed a suit for declaration and permanent prohibitory injunction against the defendants on the ground that plaintiff No.1 is absolute owner-in-possession of the suit land measuring 9-8 bighas and all the plaintiffs are the exclusive owners-in-possession of the suit land measuring 22-16 bighas. The entries showing defendant No.1 as owner-in-possession of the suit land are wrong, null and void and not binding on the rights of the plaintiffs.

3. Further, it has been prayed that the plaintiffs and defendant No.35 are not bound by the decree dated 13.03.1962 passed by the learned Senior Sub Judge, Bilaspur and that in case any part of the suit land has been transferred by defendant No.1, the same is null, void, and illegal and not binding on the rights of the plaintiffs.

4. The suit came to be resisted by the defendants by filing written statement, wherein preliminary objections with respect to maintainability, *res judicata*, estoppel, etc. were taken. All the averments as made in the plaint were specifically refuted and denied.

5. The learned trial Court on 12.03.2003 framed the issues in the following manner:

1. Whether the plaintiff No. 1 Sukh Ram, is absolute owner in possession of the suit land mentioned in the head note-A, of the plaint and the entry of ownership

and possession qua this land in favour of defendant No. 1, is wrong as alleged?

----OPP.

2. Whether the plaintiffs are absolute owners in possession of the suit land mentioned in head note-B, of the plaint and the entry of ownership and possession qua this land in favour of defendant No.1, is wrong, as alleged?

...OPP

3. Whether the plaintiff No.1, Sukh Ram, and deceased Jagta, predecessor-in-interest of defendants No.35-a to d, are owners in possession of the suit land mentioned in the head note-C of the plaint and the revenue entry in favour of defendant No.1, as owner in possession qua this land is wrong as alleged?

.....OPP.

4. Whether the plaintiffs and defendants No. 35-a to d, are not bound by the decree of the learned Senior Sub Judge, Bilaspur, dated 13-3-1963? If so its effect?

.....OPP.

5. Whether the land transferred to defendant No.1, from the suit land mentioned in head notes-A, B and C from the land owned and possessed by the plaintiff No.1, and deceased Jagta, predecessor-in-interest of defendants No.35-a to d, during the consolidation is also wrong and against law as alleged?

....OPP.

6. If issue No.5, is proved in affirmative, whether the defendant No.1 has no right to get the suit land partitioned as alleged?

.....OPP.

7: If issues No.1 to 7 are proved in affirmative, whether the order passed by A.C. Ist Grade, Ghumarwin on 07-01-1991, 04-12-1991 and 21-09-1992 and by Collector Sub-Division, Ghumarwin, dated 28-12-1994 are null and void and not binding on the plaintiff No.1, and defendants No.35-a to d, as alleged?

.....OPP

8. Whether the plaintiff No.1 and defendants No. 35-a to d are entitled to the decree of possession against the defendant No.1, in the alternative as alleged?

-----OPP.

9. Whether the plaintiffs are entitled to the relief of injunction against the defendants as alleged?

-----OPP.

10. Whether the suit is not maintainable in the present form?

-----OPD-1 and 35-a to d.

11. Whether the suit is barred by principle of res-judicata?

-----OPD-1, and 35-a to d.

12. Whether the acts and conduct of the plaintiffs are bar to the present suit as alleged?

-----OPD-1 and 35-a to d.

13. Whether the plaintiffs have no cause of action as alleged?

---OPD and 35-a to d.

14. Whether the suit is barred by time as alleged?

---OPD and 35-a to d.

15. Whether the suit has not been valued properly for the purpose of Court fee and jurisdiction ?

---OPD and 35-a to d.

15-A. Whether the defendant No.1 is shown owner in possession of 88/188 shares in the suit land on the basis of judgment and decree of the then learned S.S.J Bilaspur, passed in the year 1962, as alleged ?

-----OPD and 35-a to d.

16. Whether the suit is bad for non-joinder and mis-joinder of necessary parties as alleged ?

----OPD and 35-a to d.

17. Relief.

6. The parties adduced their evidence in support of their contentions. The learned trial Court, vide judgment and decree dated 30.06.2011, dismissed the suit as filed by the plaintiffs-appellants.

7. Feeling dissatisfied, the plaintiffs preferred an appeal before the Court of learned Additional District Judge, Ghumarwin, District Bilaspur. The learned first appellate Court, vide its impugned judgment dated 30.12.2017, affirmed the findings as returned by the learned trial Court and dismissed the appeal filed by the present appellants.

8. Still feeling dissatisfied, the plaintiffs have approached this Court by invoking the provisions of Section 100 of the CPC.

9. During the pendency of appeal, the plaintiffs-appellants had filed an application bearing CMP(M) No.1509 of 2018, whereby it has been averred that appellant No.10, Satya Devi, daughter of

Manshu, expired on 30.10.2016 during the pendency of the first appeal.

10. The record reveals that admittedly the impugned judgment was passed by the learned Additional District Judge on 30.12.2017, meaning thereby appellant No.10, Smt. Satya Devi, expired prior to the passing of the impugned judgment.

11. The record also demonstrates that during the pendency of the appeal before the learned first appellate Court, respondent No.21, Nikka Ram, had expired and an appropriate application was filed by the present appellants for bringing on record the legal representatives of the said deceased respondent No.21. Since no orders were passed by the learned first appellate Court in the said application, therefore, the said application has remained undecided.

12. The Hon'ble Apex Court has laid down the exposition of law in **(2017) 13 SCC 414**, titled as, **Gurnam Singh (Dead) through Legal representatives & others vs. Gurbachan Kaur (Dead) by legal representatives**, wherein it has been held that a judgment passed in favour or against a dead person is a nullity. The relevant para of the aforesaid judgment reads as follows:

“21) 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" (See-N. Jayaram Reddy & Anr. Vs. Revenue Divisional Officer & Land Acquisition Officer, Kurnool, (1979) 3 SCC 578, Ashok Transport Agency vs. Awadhesh Kumar & Anr., (1998) 5 SCC 567 and Amba Bai & Ors. Vs. Gopal & Ors., (2001) 5 SCC 570)."

13. Admittedly, in the present case, the judgment has been passed against dead persons, namely Smt. Satya Devi appellant No.10 and in favour of respondent No.21 Shri Nikka Ram.

14. Therefore, in view of the law as laid down by the Hon'ble Supreme Court in *Gurnam Singh (supra)*, the judgment and decree as passed by the learned Additional District Judge is a nullity and it is liable to be quashed and set aside on this sole ground.

15. Consequently, the impugned judgment and decree as passed by the learned Additional District Judge dated 30.12.2017 is quashed and set aside and the parties are relegated to the Court of learned Additional District Judge, Ghumarwin, District Bilaspur, with a direction that the present appellants-plaintiffs shall file appropriate applications for bringing on record the legal representatives of deceased appellant No.10, Smt. Satya Devi. The learned first

appellate Court shall determine the point of abatement and thereafter decide the appeal on its own merits. Similarly, the application which was filed by the appellant for bringing on record the legal representatives of respondent No.21 be also decided in accordance with law.

16. The parties undertake to appear before learned first appellate Court on **22.09.2026**. The learned first appellate Court is directed to take the appeal to its logical end after affording opportunity to the respective parties. Records be sent forthwith with.

17. Pending application(s), if any, shall also stand disposed of.

(Romesh Verma)
Judge

18th August, 2026.
(vt)