

NHAI vs. Baniya Ram & ors.

OMP(M) No.169 of 2024

5.8.2026 Present: Ms. Shreya Chauhan, Advocate, for the applicant.

Mr. Yuyutsu Singh Thakur, Advocate, for respondents No. 1, 2(ii) and 3.

Name of respondent No. 2(i) is deleted.

Respondent No. 4 is stated to have expired.

OMP(M) Nos. 168 and 169 of 2026

The applicant has filed the accompanying appeal, under Section 37 of the Arbitration and Conciliation Act, 1996. Since, the applicant has not filed the appeal within the prescribed period of limitation, as such, by moving OMP(M) No. 169 of 2024, under Section 5 of the Limitation Act, a prayer has been made to condone the delay.

When, the notices of the application under Section 5 of the Limitation Act were issued to the non-applicants, then, it was found that respondent No. 4 Karju, w/o Lokha Ram has expired, during the pendency of the lis, before the learned District Judge, Bilaspur, H.P.

The applicant has preferred the objections, under Section 34 of the Arbitration and Conciliation Act, before the learned District Judge, Bilaspur, H.P.

Perusal of the record shows that in the Arbitration Case No. 159 of 2018, titled as, 'National Highways Authority of India versus Baniya Ram & others', Ram Dass son of Shri Lokha Ram (deceased) was sued through his widow Nirmla Devi and son Ganga Vishan.

In addition to this, son of Lokha Ram, namely, Piyaaru Ram and widow Karju were also impleaded as respondents No. 3 and 4. Meaning thereby the said objections were filed against the sons and widow of Lokha Ram. Respondent No. 4 Karju was being represented by her counsel before the learned District Judge, Bilaspur, H.P.

Now, by way of OMP(M)s No. 168 and 169 of 2026, a prayer has been made to bring on record the LRs of respondent No. 4 Karju. The estate of Karju was duly represented by her sons, before the learned District Judge, Bilaspur, H.P.

If the facts and circumstances of the present case are seen in the light of the decision of Hon'ble Supreme Court in a case titled as, '**Kishorilal (D) through LRs vs. Gopal**, 2026 INSC 48, then, instead of bringing on record the LRs of respondent No. 4, her name is required to be deleted, as her estate is being represented by her sons. Relevant paragraph-40 of the judgment is reproduced as under:

“40. The decision in Dwarka Prasad (supra), relied by the learned counsel for respondents, in our view, is not of much help to the respondents because in that case the vendor's interest was not represented at all. Whereas in the present case, three out of four legal heirs of Kishorilal (i.e., the vendor) were already on record. In our view, there is a clear distinction between non-substitution of the legal representatives/ legal heirs of a deceased party and non-substitution of one of the heirs of a deceased party. In the latter, if the interest of the deceased party is sufficiently represented by other heirs/ legal representatives on record, there will be no abatement as was held in Mahabir Prasad (supra) and Bhurey Khan (supra). Therefore, in our view, Dwarka Prasad's decision is distinguishable on facts. High Court's final decision is hit by principle of res judicata.”
(self emphasis supplied)

In view of above, the present applications are disposed of and the name of respondent No. 4 Karju is ordered to be deleted from the array of parties. The Registry is directed to carry out necessary corrections in the memo of parties.

OMP(M) No. 169 of 2024

In view of no objection made by learned counsel for the non-applicants, the application, under consideration is allowed and delay in filing the Arb. Appeal is ordered to be condoned. The application is, thus, disposed of.

Arb. Appeal No. _____

Be registered.

Admit.