

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

OMP (M) No. : 224 of 2024
Decided on : 05.10.2026

National Highways Authority of India Appellant

Versus

Gurbakhash Respondent

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?

For the applicant : Ms. Shreya Chauhan, Advocate.

For the respondent : None.

Virender Singh, Judge (Oral)

OMP(M) Nos.642 & 681 of 2026 in OMP(M)
No.224 of 2024

Applicant-National Highways Authority of India has preferred the accompanying appeal against the award dated 27.12.2023, passed by the Court of learned District Judge Bilaspur, District Bilaspur, H.P. in Case No.61 of 2019, titled as 'National Highways Authority of India versus Gurbakhash'.

2. Since, the appeal is barred by limitation, as such, the present application has been filed for condonation of delay.

3. Respondent is stated to have expired. As per the contents of the applications, bearing OMP(M) Nos.642 and 681

of 2026, respondent- Gurbakhash expired on 23.11.2020. In order to demonstrate the said fact, legal heirs certificate of deceased Gurbakhash issued by the competent authority has been annexed.

4. On 23.11.2020, the *lis* was pending before the learned District Judge, Bilaspur. Meaning thereby, the award has been passed against a dead person, as, no efforts have been made by the applicant-appellant to bring on record the legal representatives of respondent-Gurbakhash.

5. Since, the death had taken place, when the *lis* was pending, before the learned District Judge, as such, the award passed by the learned District Judge, Bilaspur, for or against a dead person is nullity.

6. My this view is being guided by the decision of the Hon'ble Apex Court in '**Gurnam Singh (Dead) through Legal Representatives & Ors. Vs. Gurbachan Kaur (Dead) by Legal Representatives' (2017) 13 SCC 414**'. It is apt to reproduce para 21 of the judgment, as under:-

"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'."

7. In view of the above, this Court is left with no option, but, to set aside the award, qua case No.61 of 2019, titled as National Highways Authority of India versus Gurbakhash, passed by the learned District Judge, Bilaspur and to remand the matter back to the learned District Judge, Bilaspur, for fresh disposal, in accordance with law, after bringing on record the legal representatives of the respondent-Gurbakhash.

8. Since, the lis was pending from the year 2019, as such, it is expected from the learned District Judge to decide the matter, within a period of four months.

9. With these observations, the award dated 27.12.2023, passed by the learned District Judge, in Arbitration No.61 of 2019, is set aside.

10. Parties, through their counsel, are directed to appear, before the learned District Judge, Bilaspur, on **26th October, 2026**.

11. All pending miscellaneous applications shall also stand disposed of.

Record be sent back, immediately.

(Virender Singh)
Judge

October 05, 2026 (ps)