

NHAI vs. Roop Lal & ors.

OMP(M) No. 222 of 2024

24.8.2026

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

Respondent No. 1 is stated to have expired.

Mr. Malay Kaushal, Advocate, for respondents No. 2 and 3.

OMP(M) Nos. 365 of 2025 and 529 of 2026

By way of present applications, a prayer has been made to bring on record the LRs of deceased respondent No. 1, who, as per the application under Order 22 Rule 4 & 9 CPC, has expired on 3.8.2020, when, the lis was pending before the learned District Judge, Bilaspur, H.P., after condoning the delay.

As per the application, respondent No. 1 Roop Lal has left behind his LRs, whose names have been mentioned in para-3 of OMP(M) No. 365 of 2025.

At this stage, learned counsel appearing for respondents No. 2 and 3 has pointed out that proposed LRs, mentioned at serial Nos. A and B are already on record, as respondents No. 2 and 3.

In normal circumstances, when death has taken place, when, the case was pending before the learned District Judge, the matter is required to be remanded back, as appeal in favour and against the dead person, is a nullity. However, in the present

case, estate of deceased respondent No. 1 Roop Lal has duly been represented by his sons Shashi Pal and Surender Pal, before the District Judge, Bilaspur, as such, the matter is not required to be remanded back.

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, his name is required to be deleted, as his estate is being represented by his 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 the averments made in the application, this Court is satisfied that there are sufficient grounds for not moving the application, within the prescribed period of limitation. As such, delay in filing the application, under Order 22 Rules 4 and 9 CPC, is ordered to be condoned and the LRs of deceased respondent No. 1, namely Shakuntla Devi and Raj Kumari are ordered to be brought on record. The applications are, thus, disposed of. The Registry is directed to carry out necessary corrections in the memo of parties.

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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.

Notice. Mr. Malay Kaushal, Advocate appears and waives service of notice on behalf of respondents Shashi Pal and Surender Pal. Notice be issued to respondents Shakuntla Devi and Raj Kumari, returnable for 28.9.2026.

CMPST No. 38257 of 2024

The appeal, preferred by the appellant/applicant will take sufficient long time, for its disposal. As such, during pendency of the appeal, execution of judgment, dated 27.12.2023, passed by the learned District Judge in Arbitration Case No. 68 of 2019, titled as, 'National Highway Authority of India versus Roop Lal & others', whereby the impugned award dated 5.9.2018, passed by the learned Divisional Commissioner, Mandi, exercising the power of Arbitrator, under National Highways Act, 1956, in Award No. 377 of 2014, has been upheld, is ordered to be stayed, subject to deposit of the entire awarded amount, alongwith up-to-date interest, within a period of eight weeks from today. The application is, thus, disposed of.

Modification/alteration/vacation, on
motion.

(Virender Singh)
Judge

August 24, 2026
(kalpana)