



In the High Court of Punjab and Haryana at Chandigarh

(106)

**CWP No.13233 of 2010(O&M)
Date of Decision: 14.05.2024**

Naveen Kumar and others

.....Petitioners

Versus

The Gram Panchayat village Saido Bhulana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Mr. G.S. Nagra, Advocate and
Mr. Atul Jain, Advocate for the petitioners.

Mr. Ish Puneet Singh, Advocate for respondent No.1.

Mr. Maninder Singh, Sr. Deputy Advocate General, Punjab
for respondents No.2 and 3.

Mr. Ramesh Sharma, Advocate for respondents No.4 to 6.

SURESHWAR THAKUR, J. (ORAL)

1. Through the instant writ petition, prayer is made for quashing the impugned order rendered on 30.12.2009 Annexure P-11 passed by the Director, Rural Development and Panchayat, Vikas Bhawan, Sector- 62, S.A.S. Nagar, Mohali (exercising the powers of Commissioner). During the pendency of the instant writ petition before this Court, an application (CM No.9953-2010) has been filed by the LR's of deceased Nirmal Kishore, whereby they seek their substitution in place of the said deceased Nirmal Kishore.



2. This Court would proceed to allow the said application only if the demise of said Nirmal Kishore had occurred during the pendency of the instant writ petition. However, as averred in the application supported by an affidavit of his LRs, the demise of the said Nirmal Kishore, who became impleaded as co-respondent No.2 in the statutory appeal bearing No.14 of 2006 and which resulted in the passing of impugned Annexure P-11, thus occurred on 22.08.2009, whereas, the verdict in the said appeal was passed subsequently, rather on 30.12.2009. Consequently, the demise of the said co-respondent No.2 Nirmal Kishore occurred during the pendency of the said statutory appeal, despite without his remaining un-substituted by his LRs. Resultantly, without his being substituted by his LRs, the Appellate Authority proceeded to make Annexure P-11. In sequel, the impugned Annexure P-11 becomes non-est and void on the ground that it has been passed against the deceased co-respondent No.2 who remained un-substituted by his LRs.

3. In the face of the above, the instant application (CM No.9953-2010) is not maintainable before this Court, as the law is trite, that the jurisdiction to make an order of substitution, is vested in the Court or the quasi judicial authority, wherebeforewhom the demise of a litigant takes place.

4. Since as stated supra, the verdict impugned Annexure P-11 before this Court has been rendered against deceased co-respondent No.2 Nirmal Kishore and that too without his being substituted by his LRs, as such, the said void and non-est verdict is set aside and quashed.



5. In the aftermath, after allowing the instant writ petition, the impugned verdict Annexure P-11 is quashed and set aside leaving liberty to the LRs of deceased Nirmal Kishore to prefer and application under Order XXII Rule 3 CPC before the Appellate Authority concerned, who on receiving the said application shall pass a lawful order thereons. Subsequently, after the lawful substitution of the deceased Nirmal Kishore being made by the Appellate Authority, thereafter, the said appeal shall be restored to its original number and a fresh decision, in accordance with law, but after hearing all affected persons concerned, shall be recorded on the said restored appeal. Moreover, a decision on the said restored appeal shall be made, positively within a period of six months from today.

6. In view of the afore made observations, the instant writ petition is disposed of accordingly. Pending applications, if any, also stand disposed of.

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

MAY 14, 2024
d.gulati

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No