

CS No. 468/2022

**Shri Saiyid Sirajul Hasan Vs. Shri Syed Murtaza Ali Khan Bahadur of Rampur (deceased), through legal heirs & Ors.**

10.02.2026

Present: Sh. Anil Kumar Mishra and Ms. Pallak Bhagat, Ld. Counsels for the plaintiff.

Sh. Saurabh Suman Sinha, Sh. Gautam Prabhakar and Sh. Yash Bhatnagar, Ld. Counsels for defendant No.1.

Sh. Gaurav Ghosh, Ld. Counsel for defendant Nos. 3(i) to (iii) and defendant Nos. 9 to 13.

Sh. Tarun Gupta and Sh. Hirday Viridi, Ld. Counsels for LR of defendant No.14.

The plaintiff has filed an application U/s.114 read with Order XLVII Rule 1 read with Section 151 of CPC for seeking recall of order dated 06.02.2026. It is averred in the application that vide this order, the application filed by the plaintiff for seeking impleadment of legal heir of deceased defendant No.14 was dismissed on the ground that suit against defendant No.14 has already stands abated.

Ld. Counsel of plaintiff has relied upon the judgment passed by Hon'ble Supreme Court of India in case titled as **Om Prakash Gupta alias Lalloowa (now deceased) Vs. Satish Chandra (now deceased) [(2025) SCC Online SC 291]** in support of his plea.

A perusal of the judgment shows that if an application for bringing on record the legal heir of deceased defendant is filed after 90 days then such application should be treated as an application for seeking setting aside of abatement even if no specific prayer was made in the application in this regard.

A perusal of para No.23 of the judgment shows that even if the application filed by the plaintiff for seeking

impleadment of the legal heir of deceased defendant No.14 after expiry of the period of 90 days then such application should be treated as an application for seeking setting aside of abatement if the said application is filed within 60 days from the date of expiry of 90 days period.

In the instant case, defendant No.14 died on 28.10.2025, which was conveyed by the plaintiff on 18.11.2025. The application for bringing on record the legal heir of deceased defendant No.14 was though filed after the period of 90 days but within 150 days. Therefore, in terms of the judgment in case titled as **Om Prakash Gupta alias Lalloowa Vs. Satish Chandra (Supra)**, the said application should have been treated as an application for seeking setting aside of abatement against defendant No.14.

In view of the facts and circumstances, the application filed by the plaintiff U/s.114 read with Order XLVII Rule 1 read with Section 151 CPC is allowed. Order dated 06.02.2026 is recalled.

Ld. Counsel for LR (1) of defendant No.14 i.e. Mr. Zain Naqi shall file vakalatnama before the next date of hearing. The plaintiff shall serve other legal heir of defendant No.14, i.e. Mrs. Zeba Husain, who is resident of Lucknow, Uttar Pradesh by taking dasti notice.

In the meantime, parties may also ponder as to whether there is a possibility of an amicable solution of the dispute among them or not and apprise the court about the same on the next date of hearing.

Renotify on **20.02.2026**.

**(Pitamber Dutt)**  
Principal District & Sessions Judge  
New Delhi District  
Patiala House Courts/ND/10.02.2026