

RCA No. 21/2022
Sudha Vashishth Vs. Hafeez Khan

16.05.2025

One of the regular PAs is on leave till 24.05.2025.

Present : Ms. Amita Rajput, Ld. Counsel for deceased appellant with son of appellant, Sh. Arvind Vashishth.
Sh. S.K. Jha alongwith Sh. Punit, Ld. Counsels for respondent.

An application under Order XXII Rule 3 read with section 151 of the Code of Civil Procedure has been filed on behalf of legal representatives of deceased appellant for their substitution.

It is stated in the application that during the pendency of present appeal, the appellant had expired, on 25.09.2024 leaving behind the following legal heirs that are Sh. Vishnu Dutt Vashishth (husband), Ms. Neetu Sharma (daughter), Sh. Arvind Vashishth (son) and Sh. Puneet Vashishth (son). It is further stated that after the demise of appellant, right to sue survives in favour of abovesaid legal heirs of deceased appellant and against the respondent. It is therefore requested that the abovesaid legal heirs of deceased appellant be substituted in place of deceased appellant in the interest of justice.

On the other hand, no reply to the abovesaid application has been filed on behalf of respondent. However, it is submitted by Learned counsel for respondent that he will directly argue on the same.

Accordingly, arguments advanced on behalf of both the parties heard.

Contd/-...

It needs to be stressed that provisions of Order XXII of the Code of Civil Procedure are not penal in nature. It is a rule of procedure that substantial rights of the parties cannot be defeated by the pedantic approach by observing strict adherence to procedural aspect of law. Reliance is placed upon *Banwari Lal vs. Balbir Singh AIR 2015 SC 3573*.

As the right to sue survives in favour of legal representatives of deceased appellant or say legal representatives of the deceased appellant may carry or defend the appeal/suit. Accordingly, the abovesaid application is allowed. Legal representatives of deceased appellant as mentioned in the application that are Sh. Vishnu Dutt Vashishth (husband), Ms. Neetu Sharma (daughter), Sh. Arvind Vashishth (son) and Sh. Puneet Vashishth (son) be taken on record.

Amended memo of parties be taken on record.

Put up for further proceedings on **13.08.2025**.

(Manu Vedwan)
District Judge-02/North-East,
KKD Courts, Delhi/16.05.2025