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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ EX.P. 327/2013 & EX.APPL.(OS) 1177/2015, 1222/2015, 547/2018, 1430/2024, 1445/2024, 1446/2024, 1855/2024, 1909/2024, 110/2025 & 111/2025, CCP(O) 8/2015 and CRL.M.A. 26911/ 2024.
NAVEEN KUMAR GUPTADecree Holder

Through: Mr. D. H. Naveen, Ms. Mallika Gupta and Mr. Abhishek Kumar, Advocates (Mob. No. 8851810353)

Versus

PRAVEEN KUMAR GUPTA & ORS
.....Judgment Debtors

Through: Mr. Abhishek Grover, Advocate for JD No.1 with JD No.1 in person (through VC)
Mr. Kumar Kshitij, Advocate for applicant Mrs. Anju Gupta.

CORAM:
JOINT REGISTRAR (JUDICIAL) SH. GAGANDEEP JINDAL (DHJS)

ORDER
25.07.2025

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Proceedings are being conducted through hybrid mode.

Ex. APPL. (OS) 152/2025 (by Smt. Sarla Devi u/O XXII Rule 3 of CPC seeking substitution of LR of deceased JD No.2 Mr. Akash Gupta)

EX.APPL.(OS) 217/2025 (by Mrs. Anju Gupta u/O XXII Rule 4 r/w Section 151 of CPC for bringing on record (i) Mrs. Anju Gupta, (ii) Ruchi Rai Gupta & (iii) Govindaa Rai Gupta as LRs of deceased JD No.2 Mr. Akash Gupta) &

EX.APPL.(OS) 218/2025 (by Mrs. Anju Gupta u/O XXXII Rule 3 r/w Section 151 of CPC for appointment of applicant Mrs. Anju Gupta as guardian of two minor children (i) Ruchi Rai Gupta & (ii) Govindaa Rai Gupta, proposed LRs



of deceased JD No.2 Mr. Aakash Gupta).

Ex. APPL. (OS) 629/2025 (by DH u/S 151 of CPC for dismissal of E.As. (OS) No. 152/2025, 217/2025 and 218/2025)

1. Arguments on the captioned IAs were heard on 02.07.2025.
2. Ld. Counsel for applicant Mrs. Sarla Devi Gupta argued that the during the pendency of the present petition JD No. 2 Sh. Aakash Gupta had passed away in accident on 05.11.2024 and has no child. Therefore the applicant who is wife of deceased JD No.2, may be substituted as sole legal heir of JD No.2.
3. Ld. Counsel for applicant Mrs. Anju Gupta and her two children argued that JD no. 2 had passed away on 05.11.2024 leaving behind his wife Mrs. Anju Gupta and two minor children namely Govinda Rai Gupta and Ruhi Rai Gupta. Therefore, all these three legal heirs be substituted in place of JD No.2. Ld. Counsel for these applicants has relied upon the judgements in the case of **V. Uthirapathi Vs. Ashrab Ali & Ors, (1998) 3 SCC 148, Pepsi Foodsa Ltd. And Another Vs. Special Judicial Magistrate and others, (1998) 5 SCC, 749 and Ajab Lal Dubey and Another Vs. Hari Charan Tewari Alias Hari Tewari and Others, AIR (32) 1945 Patna 1.**
4. On the other hand, ld. counsel for DH argued that these applications filed on behalf of applicant Mrs. Sarla Devi Gupta and Mrs. Anju Gupta are not maintainable in the light of provisions of Order XXII Rule 12 CPC. The right to substitute LR's of JD No. 2 rest solely with DH u/S 50 CPC. No JD has authority to request the substitution of LR's of JD No. 2.
5. I have gone through the records.



6. Section 50 CPC is read as follow:

“50 legal representative: (1) Where a judgment-debtor dies before the decree has been fully satisfied, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.

(2) Where the decree is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and, for the purpose of ascertaining such liability, the Court executing the decree may, of its own motion or on the application of the decree-holder, compel such legal representative to produce such accounts as it thinks fit”

7. Order XXII Rule 12 provides as follow:

“12 Application of Order to proceedings. – Nothing in rules 3, 4 and 8 shall apply to proceedings in executive of a decree or order”

8. **In the judgment V. Uthirapathi Vs. Ashrab Ali & Ors** (Supra), The Hon’ble Supreme Court of India has made following observations with regard to impleadment of LR in case of death of decree holder or Judgment Debtor:

“It is clear, therefore, that if after the filing of an execution petition in time, the decree-holder dies and his legal representatives do not come on record or the judgment-debtor dies and his legal representatives are not brought on record, then there is no abatement of the execution petition. If there is no abatement, the position in the eye of law is that the execution petition remains pending on the file of the execution court. If it remains pending and if no time-limit is prescribed to bring the legal representatives on record in execution proceedings, it is open in case of death of the decree-holder, for his legal representative to come on record at any time. The execution application cannot even be dismissed for default behind the back of the decree-holder's legal representatives. In case of death of the



judgment-debtor, the decree-holder could file an application to bring the legal representatives of the judgment-debtor on record, at any time. Of course, in case of death of judgment-debtor, the Court can fix a reasonable time for the said purpose and if the decree-holder does not file an application for the aforesaid purpose, the Court can dismiss the execution petition for default. But in any event the execution petition cannot be dismissed as abated. Alternatively, it is also open to the decree-holder's legal representatives, to file a fresh execution petition in case of death of the decree-holder; or, in case of death of the judgment-debtor, the decree-holder can file a fresh execution petition impleading the legal representatives of the judgment-debtor; such a fresh execution petition, if filed, is, in law, only a continuation of the pending execution petition the one which was filed in time by the decree-holder initially. This is the position under the Code of Civil Procedure.”

9. In view of the above provisions of CPC and observations made by Hon'ble Supreme Court of India, only decree holder can file an application for substitution of LR's of JD in case of his death. It is a sole prerogative of decree holder against whom he wanted to proceed further in the execution petition. If the execution petition can be satisfied against any of the remaining JD on record, then the LR's of any of the deceased JD cannot compel the decree holder to substitute them in place of deceased JD.
10. Moreover, these applications has been filed on behalf of Mrs. Sarla Devi Gupta and Mrs. Anju Gupta alleging that they both are wife of deceased JD No.2 which cannot be true. It seems that these applications have been filed in collusion to delay the proceedings.
11. In view of these facts and circumstances and the objections raised on behalf of the decree holder, the Ex. APPL. (OS) 152/2025, Ex. APPL. (OS) 217/2025 & Ex. APPL. (OS) 218/2025 are dismissed.



12.Ex. APPL. (OS) 629/2025 disposed off accordingly.

Ex. APPL. (OS) 110/2025 (by applicants u/O XXI Rule 99, 100, 101 and 105 CPC r/s Section 151 CPC)

13.Vide order dated 03.07.2025 Hon'ble Court directed to decree holder, JD-1 and LR's of JD No. 2 to file the reply to the captioned IAs before next date of hearing i.e. 30.07.2025.

14.Decree holder, JD-1 and LR's of JD No. 2 have failed to file the reply.

15.All the parties submit that they shall file the reply before 30.07.2025 to the captioned applications as the date fixed before the Hon'ble Court.

Ex. APPL. (OS) 596/2025 (by JD no.1 u/O XXII Rule 4 of CPC for impleadment of Mr. Naveen Kumar Gupta and Mr. Praveen Kumar Gupta as LR's of deceased JD No.2 Mr. Akash Gupta)

16.Arguments heard.

17.Ld. Counsel for the applicant argued that JD No. 2 Mr. Akash Gupta had died on 05.11.2024 and JD no. 1 is only lawful and rightful legal LR of JD No. 2 being his brother. He further submits that there is no class-I LR of deceased JD no. 2 as their mother namely Smt. Nirmal Gupta had already died and their sister Smt. Kavita Gupta had already renounced her share.

18.Ld. Counsel for DH submits that he has no objection to the present application.

19.Ld. Counsel appearing on behalf of Mrs. Anju Gupta and her two minor children oppose the application on the ground that, in view of the submissions made on behalf of decree holder in Ex. APPL. (OS) 217/2025, the application cannot be allowed.

20.During the hearing of Ex. APPL. (OS) 152/2025, Ex. APPL.



(OS) 217/2025 & Ex. P. 327/2013. (OS) 218/2025, DH has opposed these applications for substitution of LR of JD No. 2 on the ground that it is a sole prerogative of DH to move applications for substitution of LR of deceased JD. Admittedly the present application has not been filed on behalf of DH. DH cannot blow hot and cold on different set of applications filed on behalf of the different applicants. The law shall remain same for the substitution of LR of deceased JD.

21. Therefore, the captioned IA is dismissed accordingly.

EX.P. 327/2013

22. It is submitted that main matter is coming up for hearing before the Hon'ble Court on **30.07.2025**.

23. Re-notify the matter before the Hon'ble Court on the date already fixed i.e. **30th July, 2025**.

GAGANDEEP JINDAL (DHJS)
JOINT REGISTRAR (JUDICIAL)

JULY 25, 2025/PU

[Click here to check corrigendum, if any](#)