

H.P. State Cooperative Marketing and Consumer Federation (HIMFED)
vs Mool Krishan and another

Exe. Pet. No. 07 of 2019

31.12.2025 Present: Mr. Vijay Singh Thakur, Advocate, for the petitioner.

Respondents No. 1 and 2 *ex parte*.

Mr. Vidur Kapoor, Advocate vice Mr. Arjun Lall, Advocate for respondents JD Nos. 4 (a) and 4(b).

CMPM No. 2368 of 2025

Notice. Mr. Vidur Kapoor, learned Counsel, accepts notice on behalf of respondents No. 4(a) and 4(b). Reply, as prayed for, within four weeks.

CMP No. 32272 of 2025

This is an application filed under Order 5, Rule 20 of the Code of Civil Procedure in the execution proceedings for the substituted service of legal heirs of deceased-respondent, namely, Vinod Aggarwal. Strangely, no application has been filed to bring on record the legal representatives of deceased respondent Sh. Vinod Aggarwal. As per learned Counsel for the applicant, the execution petitioner is not aware as to who are the legal heirs of Shri Vinod Aggarwal. It is relevant to extract the contents of the application are being reproduced herein below:-

“1. That the above-noted execution petition is pending adjudication before this Hon'ble Court and is listed for hearing on 18-12-2025 for making submissions on the issue of limitation. It is further submitted that the grounds already taken in the said execution petition may kindly be

treated as part and parcel of this application for its proper adjudication.

2. *That on 20-08-2025, respondents No. 4(A) and 4(B) informed this Hon'ble Court that respondent No. 3, namely Sh. Vinod Aggarwal, had expired during the pendency of these proceedings.*

3. *That upon learning of the death of respondent No. 3, the petitioner immediately approached the revenue authorities for obtaining information regarding the legal heirs of the deceased respondent. However, till date, no such information or updated record is available with the revenue department to ascertain who the legal heirs of the deceased respondent No. 3 are.*

4. *That the petitioner has repeatedly sought time before the learned Registrar to procure the requisite details and has made diligent efforts to gather information regarding the legal heirs of the deceased respondent. Despite these bona fide attempts, the petitioner has not been able to ascertain their identities.*

5. *That in view of the above circumstances, the service of notice upon the legal heirs of deceased respondent No. 3 through ordinary means has become impracticable and ineffective, as their particulars and whereabouts are not traceable despite due diligence.*

6. *That it is, therefore, just, necessary, and in the interest of justice that substituted service be ordered upon the legal heirs of deceased respondent Sh. Vinod Aggarwal under Order V Rule 20 CPC, by way of publication in a widely circulated newspaper and/or by affixation at the last known address of the deceased respondent.*

7. *That Respondent No. 3, Sh. Vinod Aggarwal, has deceased, and the petitioner has been unable to file an application for substitution due to the non-availability of information regarding his legal heirs, despite diligent efforts. The present execution petition cannot be abated under Order XX Rule 12 CPC, as one respondent is still alive and proceedings can continue. Thus there is no fault or negligence of the petitioner. In the interest of justice, it is necessary that substituted service be ordered on the legal heirs to enable their impleadment and revival of the proceedings against the deceased respondent.*

It is, therefore, most respectfully prayed that this application may very kindly be allowed and the substituted service of the unidentified legal heirs of deceased respondent Sh. Vinod Aggarwal, by way of publication in a widely circulated newspaper and/or affixation at the last known address in the interest of justice and fair play.

Any other relief, which this Hon'ble Court deem just and proper in the facts and circumstances of the case may

also be passed in favour of the applicant and against the respondent.”

Order 5, Rule 20 of the Code of Civil Procedure provides for substituted service of a party where the Court is satisfied that there are reasons to believe that the defendant/respondent is keeping away out of the way for the purpose of avoiding service or that for any other reasons, the summons cannot be served upon said party in the ordinary way. For this, obviously, a party has to be before the Court, from whose conduct, this inference can be drawn by the Court that the party is intentionally either evading or avoiding the service. Strangely what is being prayed for by way of this application under Order 5, Rule 20 of the Code of Civil Procedure is that because the petitioner/applicant is not aware as to who are the legal representatives of Shri Vinod Aggarwal, who is no more in this world, therefore, let there be substituted service of unknown legal representatives of deceased-Vinod Aggarwal, in the mode and manner as is being prayed for in the application. Least to say that the application is not only misconceived, but is also ill advised. Filing these kind of applications, without any due application of judicial mind, not only exposes the applicant as to what kind of a legal expertise is at its disposal, which applicant happens to be a Government Marketing Consumer Federation, it also demonstrates that flimsy

applications are being filed in the Court to waste the time of the Court, which is not acceptable.

Accordingly, this application is dismissed with imposition of cost of Rs.50,000/- upon the applicant/petitioner which will have to be deposited with Himachal Pradesh State Legal Service Authority on or before the next date of hearing.

For the purpose of compliance of this order, list on 08.01.2026.

(Ajay Mohan Goel)
Judge

December 31, 2025
(narender)