

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No. : 230 of 2025

Date of Decision: 17.06.2026

Indira Sharma

...Appellant.

Versus

State of H.P. and Ors.

...Respondents

Coram

Hon'ble Mr Justice Romesh Verma, Judge.

Whether approved for reporting?¹

For the appellant :Mr. Sanjay Kumar Sharma, Advocate.

For the respondents :Mr. Diwakar Dev Sharma, Additional Advocate General, for respondents No. 1 to 3.

:Ms. Komal Chaudhary, Advocate, for respondent No.4.

:Mr. Y.K. Thakur, Advocate, for respondent No.5.

:Mr. Raju Ram Rahi, Advocate, for respondent Nos. 6(a) and 6(b).

Romesh Verma, Judge (oral)

CMP(M) No. 915 of 2026

The instant application has been filed for bringing on record the legal representatives of deceased respondent No. 6(a), Sh. Rakesh Sharma, who is stated to be expired on

(2026:HHC:23142)

30.03.2026. It has been averred in the application that the said deceased has left behind the legal heirs as mentioned in para-3 of the application. The application is not opposed by the learned counsel for the non-applicants.

Consequently, in view of the averments as made in the application, which is duly supported by an affidavit and in view of the no objection on behalf of the non-applicants, the present application is allowed, subject to all just exceptions, the legal heirs of deceased respondent No. 6(a) is ordered to be brought on record as respondents No. 6(a)(i) to 6(a) (iii).

Amended memo of parties accompanying the application is taken on record.

Accordingly, the application stands disposed of.

RSA No. 230 of 2025

The present appeal arises out of the judgment and decree as passed by the learned Additional District Judge, Sarkaghat, District Mandi, H.P., dated 28.06.2025, in Civil Appeal No. 14 of 2023, whereby the appeal filed by respondents No. 6(a) and 6(b), namely, Rakesh Sharma and Bimla Devi, was allowed and the order passed by the learned Civil Judge (Senior Division), Court No. 1,

Sarkaghat, District Mandi, H.P. was set aside, whereby the learned Trial Court had dismissed the suit as having been abated.

2. The dispute in the present case pertains to the entitlement of the family pension *inter se* the parties. It has been averred that during the pendency of the suit, the original plaintiff, Smt. Parvati Devi, had expired. Thereafter, an application under Order 22 Rule 4 read with Section 151 of the Code of Civil Procedure was filed by the legal representatives of deceased Parvati Devi, the original plaintiff before the learned Trial Court.

3. The learned Civil Judge (Senior Division), Court No. 1, Sarkaghat, District Mandi, H.P., vide order dated 19.04.2023, dismissed the application and, consequently, dismissed the suit as having been abated.

4. Feeling dissatisfied by the aforesaid order, the legal representatives of the deceased plaintiff, late Smt. Parwati Devi, preferred a Civil Appeal under Section 96 of the Code of Civil Procedure before the learned Additional District Judge, Sarkaghat, District Mandi, H.P., on 23.05.2023. The learned First Appellate Court allowed the appeal preferred by the legal representatives of the

plaintiff and set aside the order passed by the learned Senior Civil Judge whereby the suit has been dismissed as having been abated.

5. Feeling aggrieved by the said judgment, defendants have approached this Court by filing the instant Regular Second Appeal. It is contended by learned counsel for the appellant that the impugned judgment which is under challenge before this Court is erroneous and is liable to be set aside. It is further submitted that without conceding anything on the merits of the case, even the legal heirs of the plaintiff are not entitled for the family pension.

6. On the other hand, learned counsel for the respondents have vehemently stated that by virtue of the impugned judgment, the suit as preferred by the plaintiff has been revived and the said claim and contention has to be adjudicated by the learned Trial Court on its own merit. At this stage, it cannot be determined whether the legal representatives of the original plaintiff are entitled to receive the family pension.

7. Consequently without touching upon the merits of the case and without interfering the impugned judgment as passed by the learned First Appellate Court, the parties are relegated to the learned Trial Court by directing the learned Civil Judge (Sr. Division),

(2026:HHC:23142)

Court No. 1, Sarkaghat to adjudicate the case in hand on its own merits by affording an opportunity to both the parties to adduce the evidence in support of their respective contentions and also determine whether the parties are entitled for the family pension or not and take the case to its logical end.

8. In view of the above discussion, the present appeal is disposed of. Pending miscellaneous application(s), if any, shall also stand disposed of.

(Romesh Verma)
Judge

17th June, 2026
(*sushma*)