

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM(5471/2024) IN OWP 127/2001 c/w i)OWP 1856/1991 ii)OWP 839/2012

MST. SHAZADA HUSSAIN THROUGH HER ATTORNEY ...Petitioner/Appellant(s)
MANZOOR AHMAD WANI

Through: Mr. Shuja ul Haq, Advocate
Mr. Shariq Riyaz Jan, Advocate.
Ms. Ahra Syed, Advocate

Vs.

STATE OF JK AND ORS ...Respondent(s)

Through: Mr. Bikramdeep Singh, Dy.AG.

CORAM:

HON'BLE MR JUSTICE JAVED IQBAL WANI, JUDGE

ORDER
11.03.2025

CM No.6066/2022

1. In the instant application the applicant herein seeks substitution of the deceased petitioner 1 in OWP No.127/2001 namely Habibullah Khanyari S/o Haji Ahmad Joo Khanyari R/o Rajbagh Srinagar, who is stated to have died during the pendency of the petition on 11.07.2019.
2. It is being stated in the application by the applicant that he represents the deceased petitioner 1 and succeeded to his assets, as such, be substituted in place of the deceased petitioner 1 while stating further that the application could not be filed on time owing to the fact that the family members of the deceased petitioner 1 were residing outside the country as also due to outbreak of COVID-19 pandemic.
3. Notices stand issued in the instant application to the respondents/non-applicants, however, till date objections have not been filed.
4. It is significant to note here that during the pendency of the instant application, one more application being CM No.1161/2023 also came to be filed by one Shazada Hussain D/o Habibullah Khanyari through her Attorney-Manzoor Ahmad Wani S/o Mohammad Yasin Wani R/o Brein Nishat Srinagar stating therein that the deceased petitioner 1 in the petition upon his death is survived by the following legal heirs:

- a) Iqbal Mubarak (son, applicant in CM 6606/2024)
- b) Shahida (daughter)
- c) Samina (deceased daughter)
- d) Asifa (daughter)
- e) Shazada (daughter) and
- f) Hukum Sultana (daughter)

5. The said application upon coming up for consideration came to be allowed by this Court on 17.03.2023, however, the said order came to be called in question by the present applicant herein in LPA No.92/2023 on the premise that the application filed by above named Shazada was allowed without issuing any notice and hearing the applicant herein. The LPA Bench however, in its order dated 03.04.2024 did not interfere with the said order dated 17.03.2023, yet gave a liberty to the present applicant to approach the writ court for recalling of said order dated 17.03.2023.
6. Since, in the present application, the applicant herein has not impleaded the above named Shazada as a party respondent inasmuch as none of the other legal heirs of the deceased petitioner 1 Habibullah Khanyari. However, also having regard to the nature of controversy involved in the main matter coupled with the submissions made by the counsel for the applicant and counsel for the above named Shazada present in the Court, it is deemed appropriate and in the interest of justice to implead all surviving legal heirs of Habibullah Khanyari - deceased petitioner 1 in the main petition as non-applicant in the instant application being CM no.6066/2022.
7. Accordingly, the surviving legal heirs of deceased petitioner 1- Habibullah Khanyari in the main petition are impleaded as non-applicants in the instant application including the above named Shazada.
8. Counsel for the applicant however, accordingly is directed to file an updated memo of parties before the Registry within two weeks time whereafter Registry shall issue notice to the newly added non-applicants returnable within two weeks upon steps within one weeks.
9. List on 09.04.2025.
10. Meantime, objections.

CM No. 5471/2024

The instant application has been filed by the applicant herein pursuant to order of the LPA Bench dated 03.04.2024 seeking recalling of order dated 17.03.2024 passed in CM No. 1161/2023. The newly added non-applicant in CM No.6066/2022 shall also be deemed to have been impleaded as party respondent in the instant application as well and as notice in the instant application shall also go as directed above in CM No. 6066/2022 to the said non-applicants.

List on 09.04.2025 along with CM No. 6066/2022.

Meantime, objections.

SRINAGAR

11.03.2025

Ishaq

