

Serial No. 02  
Regular List

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT JAMMU**

**CSA No. 29/2013**  
c/w  
**CSA No. 28/2013**

**Dharam Shalla Suthrian**

.....Appellant

Through: Mr. U.K. Jalali, Sr. Advocate with  
Ms. Muskan Raina, Advocate

**Vs**

**Joginder Gupta & Ors.**

..... Respondents

Through: Mr. Sunny Mahajan, Advocate and  
Mr. Rohan Nanda, Advocate

**CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE**  
**ORDER**  
**(14.11.2025)**

- 01.** A civil suit came to be commenced by the plaintiff-Dharamshalla Udhampur acting through its alleged Mahant Subash Shah Gaddi Suthra Shahi, Pacca Danga, Jammu, against one Om Parkash S/o late Sh. Anant Ram on 27.05.1997 for permanent prohibitory injunction which came to be taken on file No. 12/Civil of 1997 before the court of learned Sub-Judge, Udhampur.
- 02.** The suit was for permanent prohibitory injunction with respect to the suit property in the form of a structure existing upon 2.8 kanal of land in Khasra No. 19 in

village Karlai Kangloo, Suthra Shahi, Chowk Chabutra, Udhampur.

- 03.** The suit was contested by the sole defendant resulting in passing of a judgment and decree dated **23.11.2004** dismissing the suit against which the plaintiff preferred a civil first appeal on file No. 14/Appeal on **21.12.2004** before the Court of Principal District Judge, Udhampur.
- 04.** After having filed the civil suit No. 12/Civil of 1997, the plaintiff filed another civil suit for eviction against same very defendant Om Parkash on file No. 15/Civil/98 before the court of Sub-Judge, Udhampur which also came to suffer dismissal by virtue of a judgment and decree dated **23.11.2004**.
- 05.** Thus, on the same day i.e. **23.11.2004**, two civil suits preferred by the plaintiff in the court of Sub-Judge, Udhampur had come to suffer dismissal.
- 06.** Against the judgment and decree dated **23.11.2004** of the dismissal of civil suits No. **12/Civil** and **15/Civil/98**, the plaintiff preferred civil first appeal No. **14/Appeal of 2004** and **14-A/Appeal of 2004** before the court of Principal District Judge, Udhampur.
- 07.** Both these appeals were heard together and disposed of vide a common judgment and decree dated **21.11.2012**.

- 08.** During the pendency of the civil first appeals, the defendant/respondent-Om Parkash had expired on **21.11.2011** which resulted in bringing on record his legal representatives in the said two appeals who are as under :-
- (i) Joginder Gupta;
  - (ii) Anil Kumar Gupta
  - (iii) Ajay Kumar Gupta
  - (iv) Smt. Sarla Gupta and
  - (v) Smt. Ramni Gupta.
- 09.** The application for bringing on record the legal representatives was filed on **03.01.2012**.
- 10.** All came to be respondents in said two civil first appeals.
- 11.** The appellate court of Principal District Judge, Udhampur came to reflect in its order dated **03.01.2012** that the appellant/plaintiff has preferred an application for bringing on record the legal representatives of the deceased/respondent/defendant Om Parkash.
- 12.** In response to this application, the appellate court had put the legal representatives named in the application on notice.
- 13.** On behalf of the legal representatives so named in the application for being brought on record in place of the

defendant/respondent-Om Parkash (deceased), Advocate Mr. K.V. Gupta entered appearance by filing his vakaltnama as is borne out from order dated **28.02.2012** passed by the appellate court of Principal District Judge, Udhampur.

- 14.** Two civil first appeals so preferred by plaintiff/appellant came to suffer rejection by a common judgment dated **21.11.2012** against which the plaintiff/appellant came forward with the institution of the present two civil second appeals under Section 100 of the J&K Code of Civil Procedure, Svt. 1977 filed on **12.03.2013** with respect to which condonation of delay applications came to be allowed in terms of an order dated **16.04.2013**.
- 15.** Till date substantial questions of law have not been framed in the two civil second appeals though proposed in the Memos of the appeal.
- 16.** During the pendency of present two appeals, death of Anil Kumar Gupta one of the legal representatives of deceased-sole defendant-Om Parkash, came to take place on **30.03.2017** with respect to whom the appellant has come forward with applications No. **6502/2021** and **6503/2021** for bringing on record his legal representatives.

17. Since both applications are time barred filed beyond six months period, as such, are accompanied with applications for condonation of delay being **CM Nos. 6505/2021** and **6506/2021** in bringing on record the legal representatives of the deceased-respondent No. 2-Anil Kumar Gupta.
18. At the first instance, there was no requirement on the part of the appellant to have the legal representatives of the deceased-respondent No. 2 brought on record given the fact that the rest of the respondents are duly representing the estate of respondent No. 2 being common 'successors-in-interest' of the original defendant/respondent-Om Parkash but, nevertheless, for the sake of propriety and to avoid any unwarranted objection, the appellant ventured to file applications for bringing on record the legal representatives of the deceased-respondent No. 2-Anil Kumar Gupta for which purpose condonation for delay has been sought.
19. In both the appeals condonation of delay applications CM Nos. **6505/2021** and **6506/2021** are awaiting disposal as on date.

- 20.** For the reasons as set out in said two applications for condonation of delay, same are allowed and the delay is **condoned.**
- 21.** Consequently, legal representative of the deceased-respondent No. 2-Anil Kumar Gupta, as named in applications CM Nos. **6502/2021** and **6503/2021** is brought on record who is Sunita Devi wd/o late Sh. Anil Kumar Gupta.
- 22.** On behalf of the rest of the respondents, originally it is Mr. Sunny Mahajan, learned Advocate who is appearing which included even deceased-respondent No. 2-Anil Kumar Gupta before his demise.
- 23.** Today, Mr. Rohan Nanda, learned Advocate enters appearance on behalf of the respondent No. 1-Joginder Gupta to co-join Mr. Sunny Mahajan as counsel for the respondents. Mr. Sunny Mahajan, learned Advocate intends to have instructions from Smt. Sunita Devi, the legal representative of deceased respondent No. 1 Anil Kumar Gupta.
- 24.** Summons be issued to late Sunita Devi Wd/o late Sh. Anil Kumar Gupta R/o Ward No. 9, H. No. 113, Chowk Chabutra, Udhampur.

**25.** Registrar Judicial, Jammu to address summon to the legal representative-Sunita Devi added as a co-respondent in both the appeals and the summons be sent to Tamilat Section of the court of Principal District Judge, Udhampur for the purpose of service and return of the process by the next date of hearing.

**26.** List again on **02.02.2026**.

**27.** In the meantime, send for the record of civil first appeal No. **14/Appeal of 2004** titled "**Dharam Sala Suthrian Vs. Om Parkash Bucha**" from the court of Principal District Judge, Udhampur.

**JAMMU**  
**14.11.2025**  
**SUNIL**



**(RAHUL BHARTI)**  
**JUDGE**

सत्यमेव जयते