

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

CM No. 2964/2025
CM. No. 2965/2025 In
OWP No. 2163/2018

Utsav Choudhary and Anr.

.....Appellant(s)/Petitioner(s)

Through: Mr. Vikram Sharma, Sr. Advocate with
Mr. Sanpreet Singh, Advocate

Vs

Makhan Lal and Ors.

..... Respondent(s)

Through:

Coram: HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE

ORDER
27.05.2025

1. The respondents have not still appeared in the matter.
2. There is a mention in the order dated **28.10.2024** of this Court to the effect that the respondent No. 1 is stated to have died during the pendency of the writ petition in connection whereof the petitioners seek sometime for taking steps to bring on record the legal heirs of the deceased. The petitioners as per the said order dated **28.10.2024** were given the opportunity of two weeks' to do the needful.
3. Although, the application for bringing on record the legal heirs of deceased-respondent No.1 accompanied with a separate application for condonation of delay has already been filed by the petitioners, yet it is the stand of the learned counsel for the petitioners that respondent No.1, had actually died prior to the filing of the instant petition as the petitioners were not in know of the fact. According to the learned counsel for the petitioners the impleadment of the respondent No.1 has crept in due to inadvertence in a *bona fide* manner.
4. It appears to be a case where the respondent No.1 has been impleaded as a party post his death due to inadvertence and lack of knowledge.

Correspondingly, it is not the case where bringing on record the legal heirs of a deceased party is required under law.

5. Since, the respondents are yet to appear in the case, therefore, the application of the petitioners for impleading the legal heirs of deceased-respondent No.1 can be considered by way of an amendment application. The application is supported with an application for condonation of delay.
6. In the facts and circumstances of the case, especially, having regard to the fact that the respondents are yet to appear in the case, the application bearing **CM No. 2965/2025** is *allowed* with condonation of delay, if any, and the legal heirs of the deceased-respondent No. 1 as mentioned in the application namely, (i) Sunita Sharma (wife), (ii) Davinder Sharma (son), (iii) Anil Sharma (son) all residents of House No. 52/3, Channi Himmat, Jammu are treated as party respondents 1 to 3 in the matter in place of the deceased-respondent No.1.
7. The petitioners shall file a fresh memo of parties as per this order. Registry shall also update the index of the case.
8. Registry is directed to issue fresh notices in the matter to the respondents, returnable by the next date of hearing, subject to taking of requisite steps by the petitioners within a week's period.
9. List on **23.07.2025**.

(Mohd. Yousuf Wani)
Judge

Jammu
27.05.2025
Nikhil