

ITEM NO.1717

COURT NO.3

SECTION IV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 1137-1138/2011

ZILE SINGH (D) ANR. ETC.

Appellant(s)

VERSUS

CHATTER SINGH (DEAD) THR. LRS. & ORS.

Respondent(s)

IA No. 102382/2020 - APPLICATION FOR SUBSTITUTION

IA No. 102383/2020 - CONDONATION OF DELAY IN FILING SUBSTITUTION
APPLN.

Date : 21-02-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH
[IN CHAMBER]

For Appellant(s) :

For Respondent(s) : Dr. Mrs. Vipin Gupta, AOR
Mr. Vinod Sharma, AOR
Mr. Vishal Mahajan, Adv.
Mr. Anil Kumar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

In the present case, the office report shows that upon the designation of the then Advocate-on-Record of the appellants as a Senior Advocate, the Registry had taken steps for informing the appellants for which notices were sent to them and in fact, office report indicates that service is complete on the proposed LRs Nos. 1.1, 1.4.1 and 1.4.3 of deceased appellant No.1. However, no one has appeared on their behalf. The office note further shows that

notice upon the remaining proposed LRs of the deceased appellants have been received back with remarks "out of the village/receiver does not live in the village".

Accordingly, because of the said non-representation of the proposed LRs of the deceased appellants, the matter has been listed before this Court in the Chamber.

From the above, what transpires is that while some of the proposed LRs have been notified, the rest have not been. The practice hitherto have been that the Registry would take the steps for intimating the parties in such cases in respect of those AORs who had been elevated or have been designated as Senior Advocate or elevated as a Judge/or for any reason ceased to be the AOR. However, this Court has observed that Order IV Rule 18 of the Supreme Court Rules, 2013 provides that in such an eventuality, it is the concerned Advocate on Record who on being designated as a Senior Advocate/or appointed as a Judge or for any reason ceases to be Advocate on Record for any party shall forthwith inform the party concerned that he has ceased to represent the party as Advocate on Record in the case.

It appears that a Bench of this Court faced with a similar situation had called upon the Registry and passed an order on 28.01.2025 in Criminal Appeal No. 1364 of 2015, which reads as:-

"1. The learned counsel appearing for the appellant seeks time to file notes of evidence on record.

2. In number of cases, we find that the Registry is following a peculiar procedure. Whenever the Registry finds that an Advocateon-Record appearing for the party has been designated as a Senior Advocate, mechanically, a notice for making an

alternative arrangement is issued to the party concerned. There are number of cases where the notice is not served which results into delay in disposal of the cases. 3. The Registry, pursuant to our earlier order, has submitted a report dated 24th January, 2025. We have perused the said report.

3. In the report, the Registry has relied upon certain practice circulars. The dates of the practice circulars relied upon are prior to the date on which the Supreme Court Rules, 2013 (for short, "the 2013 Rules") came into force. In terms of the notification dated 27th May, 2014 issued in the Official Gazette by the Hon'ble Chief Justice of India, in accordance with sub-Rule (2) of Rule 1 of Order I of the 2013 Rules, the 2013 Rules have come into force with effect from 19th August, 2014. Obviously, after coming into force of the 2013 Rules, any practice circular/direction which is inconsistent with the specific Rules cannot be implemented.

4. Our attention is invited to Rule 18 of Order IV of the 2013 Rules. Rule 18 of Order IV reads thus:

"18. An advocate-on-record who, on being designated as a senior advocate or on being appointed as a Judge or for any other reason ceases to be an advocate-on-record for any party in a case shall forthwith inform the party concerned that he has ceased to represent the said party as advocate-on-record in the case. The senior advocate, so designated, shall not appear as senior advocate till he reports to the Registry that parties represented by him earlier have been so informed of his designation as senior advocate and that necessary arrangements have been made for the parties to make appearance before the Court in all the cases represented by him till then."

5. Rule 18 incorporates a mandatory provision that a Senior Advocate, so designated, shall not appear as a Senior Advocate till he reports to the Registry that the parties represented by him earlier have been so informed of his designation as a Senior Advocate and that necessary arrangements have been made for the parties to make appearance before the Court in all the cases represented by him till then. This Rule incorporates multiple obligations on an Advocate-on-Record designated as a Senior Advocate. The first obligation is that the Advocate-on-Record has to inform his clients of his designation as a Senior Advocate. The second obligation is to report to the Registry that the parties represented by him in all the cases have been so informed and that necessary arrangements have been made for the parties to make appearance before the Court in all the cases represented by him till then. Thus, an Advocate-on-Record, who is designated as a Senior Advocate, cannot appear in any case as a Senior Advocate unless he submits a report to

the Registry of making a compliance with Rule 18 of Order IV of the 2013 Rules.

6. In fact, even before the 2013 Rules came into existence, this Court in the case of Papanna & Anr. vs. State of Karnataka & Ors. taken a view as under:

"1. ...As a matter of fact, it is the professional duty of the counsel, on being designated as Senior Advocate, to intimate that fact to all his clients and request them to make alternative arrangements to engage another advocate-on record. It is no part of the duty of this Court to inform the parties. ..."

7. Thus, even before Rule 18 of Order IV came on the Rule Book, this Court has in no uncertain terms laid down that it is the professional duty of the counsel on being designated as a Senior Advocate to intimate that fact to all his clients and request them to make alternative arrangements. This Court in so many words held that it is no part of the duty of the Court to inform the parties.

8. We must ensure that Rule 18 of Order IV is strictly implemented. We, therefore, direct the Registrar (Judicial) to submit a report to this Court as to how many Advocates-on-Record who are designated as Senior Advocates on or from 1st January, 2024 till date have complied with the requirements of Rule 18 of Order IV of the 2013 Rules by submitting a report as contemplated by the said Rule.

9. If the Registrar (Judicial) finds that certain Advocates-on-Record who have been designated as Senior Advocates have not submitted a report to the Registry as required by Rule 18 of Order IV, the Registry shall invite attention of the said Advocates-on-Record to the fact that they cannot appear in this Court as Senior Advocates. The Registrar (Judicial) to file a compliance report by 27th February, 2025. The compliance report shall state the names of the Advocates-on-Record who have not complied with the requirements as contemplated under Rule 18 of Order IV of the 2013 Rules as well as the law laid down by this Court in the case of Papanna (supra).

10. While we say so, we must add here that even if there is no obligation of the Court to give intimation to the parties that their Advocate-on-Record has been designated as a Senior Advocate, in a fit case, this Court can always exercise discretion of issuing a notice to a party who is found to be unrepresented.

11. As there is nothing confidential in the report dated 24th

January, 2025 submitted by the Registrar (Judicial), the same need not be kept in a sealed envelope.

12. List the Appeal on 28th February, 2025 for considering the compliance report of the Registrar (Judicial)."

It appears that the Criminal Appeal No. 1364 of 2015 will be placed before the Court on 28.02.2025.

Under the circumstances, let the present matter be listed on 07.03.2025 so that appropriate consistent order can be passed.

Let a copy of this order be served upon Mr. Rishi Malhotra, Senior Advocate for his information.

(VIJAY KUMAR)
COURT MASTER (SH)

(ANJALI PANWAR)
COURT MASTER (NSH)