



Nullity Of Judicial Proceedings Involving The Deceased Parties: Reconciling Doctrinal Foundations With Procedural Deviations

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ABSTRACT

This paper revisits the doctrine of nullity in Indian civil procedure to interrogate a quietly disquieting judicial trend: the validation of decrees passed in favour of deceased parties, despite explicit statutory provisions. It examines how the doctrine—anchored in the foundational maxim *actio personalis moritur cum persona* (a personal action dies with the person)—safeguards jurisdictional integrity by asserting that no adjudication can stand in the absence of a legally existent party. It contends that nullity is not a procedural formality but a jurisdictional imperative. Yet, Indian courts have carved subtle exceptions—upholding decrees 'in favor of' deceased litigants on grounds of equity, procedural harmlessness, or absence of demonstrated prejudice. This study exposes the doctrinal dissonance that arises when equity is allowed to override statutory mandates. Through a critical engagement with key judgments—including *P.M.A.M. Vellayam Chetty*, *N. Jayaram Reddy*, and the binding authority of *Gurnam Singh v. Gurbachan Kaur*—it demonstrates how such deviations compromise the procedural clarity enshrined in the Code of Civil Procedure, 1908. It warns that these exceptions, however well-intentioned, risk judicially legislating beyond codified boundaries. The paper urges that justice pursue outcomes and uphold the legal processes conferring legitimacy. It affirms *that the proceeding is non est when jurisdiction is lost*. The legitimacy of a judicial system rests not on the justice of its results but on the fidelity of its means.

Key Words: Doctrine of Nullity, *Actio Personalis Moritur Cum Persona*, Abatement, Order XXII CPC, Judicial Discretion, Equity, Exceptions, Procedural Fairness, *Per In curiam*.

INTRODUCTION:

The foundational understanding that 'proceedings involving a deceased individual is a nullity' is a keystone of procedural and substantive justice. It rests on the legal maxim "*Actio personalis moritur cum persona*"—meaning a personal action dies with the person. This understanding emphasises that judicial proceedings cannot validly involve a non-existent legal entity. As a primary doctrine of law, the doctrine of nullity posits that acts or decisions undertaken without essential jurisdiction or involving procedural infirmities are void *ab initio* and devoid of legal effect. Once declared a nullity, such proceedings are deemed never to have existed in the eyes of the law, incapable of conferring rights, imposing obligations, or producing enforceable consequences. As a protective measure, this doctrine aims to preserve the transparency of judicial proceedings by ensuring the conformity with the legal framework and procedural requisites—thereby upholding fairness, due process, and legal certainty.

This study explicitly excludes abatement cases due to the non-substitution of legal representatives within the prescribed 90-day period. Instead, it examines the legal ramifications of the doctrine of nullity in the context of judicial orders passed *against* or *in favor of* a deceased person and the divergent judicial reasoning in these distinct situations.

The maxim *Actio personalis moritur cum persona* is premised on the foundational rule that legal disputes

must be *inter vivos*—between living persons or legally recognized entities. In **Mohun Chunder Koondo Vs. Azeem Gazeem Chowkeedar**,¹ Justice Barnes Peacock and Justice Mitter enunciated a pivotal procedural principle: a suit instituted against a deceased person is null and cannot stand. The ruling delineates two principal scenarios in civil proceedings:

1. Proceedings Initiated Against a Deceased Person: If the individual is already deceased at the time of the institution of a suit, the entire proceeding is *ipso facto* void. Since a dead person lacks legal personality, no valid legal action can be taken against them, rendering any decree or judgment obtained in such a suit a nullity.
2. Proceedings Initiated Against a Living Person Who Dies During the Suit: If the individual dies during the proceeding, the law mandates that the legal representatives substitute the deceased party within the prescribed time frame. The suit would stand abated, failing such substitution, and any decree passed thereafter is unenforceable unless revived under Order XXII.

This judgment forms the foundation for subsequent jurisprudence on this subject in India, where courts have consistently maintained that proceedings against a dead person lack legal efficacy. In **Vishvanath Dnyanoba Vs. Lallu Kabla And Ors**², the Bombay High Court unequivocally stated that a court lacks jurisdiction to render a decree either 'in favour of' or 'against' a deceased person. The Patna High Court followed this principle in **Ram Khelawan Choudhury Vs. Ramudar Choudhury**.³

The Supreme Court reinforced this principle in **Mohammad Sulaiman Vs. Muhammad Ismail**⁴. The Court held that a decree passed against a deceased person without bringing his legal heirs to record is void *ab initio* and unenforceable. In **V. Uthirapathi Vs. Ashrab Al**⁵ the Court reaffirmed that the object of this doctrine is to protect the fairness and transparency of

the judicial process, as a deceased party can neither defend itself nor suffer legal consequences. In **Kishori Jena and others Vs. Rupa Jena & others**⁶; **Jagan Nath Vs. Jaswant Singh**⁷ and **Kiran Singh Vs. Chaman Paswan**⁸ the Supreme Court emphasized that proceedings suffering from jurisdictional defects—such as involving a deceased party—are inherently void. The full bench in *Kiran Singh* held:

“It is a fundamental principle well-established that a decree passed by a Court without jurisdiction is a nullity, and that its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon, even at the execution stage and even in collateral proceedings...”

This judicial stance ensures that no burdens—whether obligations or liabilities—are imposed on a legal non-entity. In **Kishun (Dead) through Lrs. Vs. Bihari (D) by Lrs**⁹ the Supreme Court annulled the decree passed against and in favour of the deceased parties, holding its nullity. In **Sumtibai & Ors. Vs. Paras Finance Co. M.P. & Ors**¹⁰. The Court reiterated that proceedings against a deceased person, without substitution, are void and non-revivable. In **Budh Ram & Ors. Vs. Bansi & Ors**¹¹. Supreme Court held that a decree against a dead person is a legal nullity and hence cannot enforce it.

EXCEPTIONS TO THE DOCTRINE OF NULLITY:

Order XXII Rule 4(4) and Order XXII Rule 6 of the Code of Civil Procedure, 1908 (CPC) embody the two statutory exceptions to the principle of nullity, which provide limited circumstances under which proceedings involving deceased parties may not be rendered void:

“Order 22 Rule 4(4) -The Court, whenever it thinks fit, may exempt the plaintiff from the necessity of substituting the legal representatives of any such defendant who has failed to file a written statement or who, having filed it, has failed to appear and contest the suit at the hearing; and judgment may, in such case, be Pronounced against the said defendant notwithstanding the death of such defendant and shall have the same force and effect as if it has been pronounced before the death took place.” **“Order 22 Rule 6- Notwithstanding anything contained in the foregoing rules, whether the cause of action survives or not, there shall be no abatement by reason. of the death of either of the parties in the interregnum period of the conclusion of the hearing and the pronouncing of the judgment, but judgment may in such case be pronounced notwithstanding the death and shall have the same force and effect as if it had been pronounced before the death took place.”**

The legal position, 'an order passed in favour of a deceased person is not always void' is based on these

¹ 12 Suth WR 45; Also See AIR 1961AP 239;

² 4 IND. CAS.137

³ AIR 1939 Patna 534

⁴ AIR 1966 SC 792

⁵ (2002) 2 SCC 640

⁶ AIR 1953 Ori 285

⁷ (1954) AIR 210, SC

⁸ (1954) AIR 340, SC

⁹ AIR 2005 SSC 3799; (2005) 6 SCC300

¹⁰ AIR 2007 SC 3166

¹¹ (2010) 11 SCC 476

provisions in all circumstances.

1. Exception under Order XXII Rule 4(4): The Doctrine of Futility and the Maxim *Lex Non Cogit Ad Inutilia*:

Order XXII Rule 4(4) CPC incorporates the *Doctrine of Futility*, closely associated with the legal maxim *Lex Non-Cogit Ad Inutilia*, which implies-- 'that the law does not compel the performance of useless acts'. If the deceased defendant had, during his life time, neither filed a written statement nor contested the suit, then catering to the statutory requirement of substituting the legal representatives would not serve any meaningful purpose. In such a situation, the Court is competent to dispense with this requirement to avoid unnecessary procedural formality and to facilitate expeditious disposal of the case—thereby ensuring that procedural technicalities do not obstruct the delivery of substantive justice.

This rule is primarily grounded in the understanding that once the Court reserves the matter for judgment-- the parties are deemed to have discharged their procedural obligations. Any delay thereafter is attributable solely to judicial deliberation. However, the relevant Party must file an application seeking exemption from substitution, and the Court must allow it before passing the decree. The Court articulated and clarified this procedural requirement in **Elisa and others Vs. A. Doss**¹² **T. Gnanavel Vs. T.S. Kanagaraj and others**.¹³

While the rule may appear to conflict with the principle of *audi alteram partem*—which mandates that no person shall be condemned unheard—Indian courts have also acknowledged the applicability of the *Doctrine of Futility* in writ proceedings as well. The Supreme Court of India, in the case of **S.L. Kapoor Vs. Jagmohan & Ors**¹⁴ held, that even where the principles of natural justice are not complied with, a writ would not lie--if the outcome would remain unchanged, thereby rendering the exercise futile. The Court later reiterated the ruling in the case of **Dr. J Shshidhar Prasad Vs. Governor of Karnataka and others**.¹⁵

These principles, including Order XXII Rule 4(4), promote the avoidance of procedural formalism where it serves no genuine legal or equitable end.

2. Order XXII Rule 6--A Statutory Embodiment of the Doctrine of Substantial Compliance:

Order XXII Rule 6 of the Code of Civil Procedure, 1908 embodies the second statutory exception to the doctrine of nullity, which rests upon the equitable doctrine of *Substantial Compliance*. This doctrine, firmly rooted in jurisprudential equity, permits courts to uphold actions where the essence or substance of a procedural requirement has been satisfied, notwithstanding minor or inconsequential deviations. According to the Constitution Bench of the Hon'ble Supreme Court in **Commissioner of Central Excise, New Delhi Vs. M/s Hari Chand Shri Gopal & Others**¹⁶ "Substantial compliance is a judicial invention, equitable in nature, designed to avoid hardship in cases where a party does all that can reasonably be expected of it but failed or faulted in some minor or inconsequential aspects which cannot be described as the 'essence' or the 'substance' of the requirements." The Court further clarified that the acceptance or rejection of this plea is contingent on the facts and circumstances of each case and must be evaluated in the context of the object and purpose of the rule or regulation in question.

The overarching common law principle of *actus curiae neminem gravabit* —translated as "the act of the court shall prejudice no one.", governs this exception. In the leading English case of **Cumber v. Wane, 1 Smith, L.C., 10th Ed., 325**, the defendant had died after the court reserved the case for orders but before judgment was formally delivered. The Court, invoking the maxim *Curia advisari vult* ("the court wishes to be advised" in modern usage, it often appears as "Judgment Reserved"), permitted the judgment to be entered *nunc pro tunc*, thereby antedating the judgment to the date on which it was originally reserved. The courts adopted this procedural construct to ensure that delay attributable solely to the Court's deliberative process did not adversely affect the rights of the parties. This principle was embraced by the Indian jurisprudence in decisions such as **Ramacharya Vs. Anantacharya**¹⁷ and the Privy Council's ruling in **Surendro Keshub Roy Vs. Doorgasoon-dery Dossee**¹⁸ In **Chetan Charan Das Vs. Balbhadradas**¹⁹ Justices Blair and Burkitt affirmed the applicability of *nunc pro tunc* decrees in situations where the parties had fulfilled all procedural obligations and a party died while the matter was under court consideration—for orders.

“Order 22 Rule 6-Notwithstanding anything contained in the foregoing rules, whether the cause of action survives or not, there shall be no abatement by reason. of the death of either of the parties in the interregnum

¹² AIR 1992 Mad 159 and

¹³ AIR 2009 SC 2367

¹⁴ 1981 AIR 136; 1980 (4) SCC 379

¹⁵ AIR 1999 SC 849; 1999 (1) SCC 422

¹⁶ 2011 (1) SCC 236, AIR 2012 SC

¹⁷ (1895) I.L.R. 21 Bom., 314

¹⁸(1888) I.L.R. 15 Cal. 253

¹⁹ (1899) ILR 21 All 314

period of the conclusion of the hearing and the pronouncing of the judgment, but judgment may in such case be pronounced notwithstanding the death and shall have the same force and effect as if it had been pronounced before the death took place."The legal position, 'an order passed in favour of a deceased person is not always void' is based on these provisions in all circumstances.

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²¹ AIR 2009 SC 2367

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²⁵ (1895) I.L.R. 21 Bom., 314

²⁶ (1888) I.L.R. 15 Cal. 25

²⁷ (1899) ILR 21 All 314

Vs. M. Sundarammal displays a practical illustration of this principle²⁸ where the plaintiff passed away on the very day the judgment was pronounced. The Court observed: "Under the English Common Law, the death of a plaintiff or a defendant causes an action to abate. After the death of either of them, therefore, no judgment can be passed and no execution can be issued. Where, however, the death of the party occurred after the hearing of the case, then in the Courts of Common Law the judgment was entered as on the date when the judgment was reserved on the principle that the party ought not to be prejudiced by the delay arising from the act of the Court." Similarly, the judgment in **Wright v. Mills, 4 H. & N. 488**, upheld the validity of a decree dated to a time preceding the death of a party, emphasizing that judicial proceedings are to be treated as having occurred at the earliest moment of the day they are conducted.

These findings and precedents collectively underscore the legal permissibility of sustaining proceedings and judgments under Order XXII Rule 6 CPC, provided the conditions of substantial compliance are met and the delay is solely attributable to the judicial process.

BEYOND THE BLACK LETTER--JUDICIAL EXCEPTIONS OUTSIDE THE LEGISLATIVE TEXT

The jurisprudential status of decrees passed either *against* or *in favour of* deceased litigants marks a significant deviation from the foundational legal maxim *actio personalis moritur cum persona*—that is, a personal cause of action dies with the person. This maxim, long recognized as a basis of procedural coherence and adversarial integrity, has been gradually eroded in Indian jurisprudence through judicially carved exceptions that lack explicit statutory authorization under the Code of Civil Procedure, 1908—till the Supreme Court reinstated the concept under **Gurnam Singh (D) thr. Lrs and others Vs. Gubachan Kaur (D) by Lrs**,²⁹.

1. Voidable, Not Void? Judicial Carve-Outs and the Erosion of a Foundational Maxim

While the maxim *actio personalis moritur cum persona* historically served to ensure procedural and substantive coherence in adversarial litigation, the Madras High Court distinctly articulated the doctrinal shift in the case of **P.M.A.M. Vellayam Chetty Vs. Jothi Mahalinga Aiyar**³⁰ where High Court examined the applicability of Order XXII Rules 4 and 6 CPC. Here, the Court reformulated the understanding on the doctrine of Nullity in proceedings involving deceased parties. Instead of declaring such proceedings *ipso jure* void, the Court introduced a different view thereby introducing a new entry point, holding that demonstrable prejudice to the deceased's legal representatives alone can vitiate the Decree. It observed:

"The object of these various provisions is to ensure that no party shall be prejudiced by a hearing in his absence. [...] It is only a party who has not been heard that can claim a rehearing on the ground that he has been prejudiced."

By relying on precedents, namely, **Goda Coopooramier Vs. Soondarammall (1909) ILR Mad 167** and **Ramacharya Vs. Anantacharya (1895) ILR Bom 314**, the Court established that procedural irregularities do not *ipso facto* render a decree null, unless the procedural lapse materially affects the substantive rights of the non-represented party. In a striking instance, the Court permitted the substitution of legal representatives after dismissing an appeal, observing in C.M.P. Nos. 1793 to 1795 of 1914:

"As the appellant has filed an application for bringing in the legal representatives on the record, they will be granted. The Vakil who appears for the added representatives does not wish to have the appeal reargued."

This approach, though grounded in a liberal interpretation of procedural fairness, it gives rise to several normative and structural concerns. First, it creates a doctrinal inconsistency—orders passed *against* deceased parties are vulnerable to challenge upon proof of prejudice, whereas orders passed *in favour of* deceased parties are routinely upheld without any such inquiry. This selective application invalidates the principle of procedural parity and transforms a categorical rule of Nullity into a condition depending on the Party's discretion.

Secondly, the inconsistency lies in the judicial tendency to retrospectively validate proceedings involving parties who, at the time of adjudication, ceased to possess legal personality. Such validation, without a statutory basis, stretches the legal fiction of party identity beyond its legitimate scope, and may risk the converting a mere procedural lapse into distortion of law. It introduces an unsettling possibility: litigation may attain a different even at the cost of procedural legitimacy.

Furthermore, this evolving position strains the express structure of Order XXII, which prescribes a precise mechanism for substitution and the consequences of non-compliance. The Court's willingness to overlook these textual mandates in the name of expediency or benefit to surviving parties raises concerns about judicial overreach and blurs the constitutional separation between adjudication and legislation.

The doctrine, articulated in *Vellayam Chetty*, was followed in **Noai Chowkidar And Ors. Vs. Official Trustee of Bengal**,³¹ **(Thamarapalli) Surya Narayana Vs. (Gopavajhala) Joga Rao And Ors**³²

²⁸ (1910) ILR 33 Mad 167

²⁹ AIR 2017SC 2419

³⁰ (1916) ILR 39 Mad 386,

³¹ AIR 1929 CAL527

³² AIR 1930 MAD 719

continuing the trend of validating such decrees as voidable and not void, subject to showing prejudice. However, this interpretive trend—though pragmatic in outcome—it is at odds with the rigor of the foundational maxim and calls for a serious reconsideration on the courts' competency to expand the procedural exceptions beyond the prescriptions of the law.

In sum, the judicial formulation that decrees passed involving a deceased party is not *per se* invalid but only voidable—subject to demonstration of prejudice—

brought in a decisive shift in the position of law on Nullity. While intended to balance efficiency with fairness, it has inadvertently turned to compromise legal certainty, dilute foundational principles, and substitute statutory accurate and consistent prescriptions with discretionary power.

2. Divergent Doctrines and Discretion: The Puzzle of Multi-Party Appeals:

The findings in **N. Jayaram Reddy Vs. Revenue Divisional Officer**³³ is a paradigmatic illustration of how Indian appellate jurisprudence has sometimes departed from the doctrinal clarity surrounding abatement in multi-party litigation. The core issue before the Court was whether failure to substitute the legal representatives of one of the deceased respondents in a cross-appeal—distinct from but heard alongside the main appeal—would vitiate the proceedings.

Though the legal representatives had been brought on record in the principal appeal, but not adequately represented in the cross-appeal filed by the State. The Supreme Court ultimately held that such non-substitution did not abate the cross-appeal, reasoning that the deceased's interest was adequately represented and that no joint or indivisible right had been impaired. The Court proceeded with the case, relying upon the procedural equity principle and the discretion of the substituted heirs to elect participation. However, this reasoning contradicts the settled legal position governing independent but parallel appellate proceedings. As held in **Sankaranaraina Saralaya v. Laxmi Hengsu & Ors.**³⁴ it is a well-established rule that bringing legal representatives on record in one appeal does not enure to the benefit of another, independently instituted appeal—even if the matters are heard together and disposed of by a common judgment. The principle distinguishes such scenarios from cross-objections filed under the same appellate cause, which are inherently linked and dependent on the main appeal.

This distinction is not procedural hair-splitting, but doctrinally vital. Appeals and cross-appeals, although occasionally heard together, are distinct legal proceedings initiated on independent cause titles. The mere fact of a common hearing or consolidated judgment does not merge their procedural identity. Hence, unless a substitution is expressly undertaken in each appeal, abatement is automatic under Order XXII of the CPC, where the deceased party remains unrepresented.

The approach adopted by the Court in *N. Jayaram Reddy* thus sets up contentiously dangerous precedent: one that conflates procedural identity across distinct proceedings, thereby displacing the mandatory nature of substitution with discretionary reasoning. Worse still, the Supreme Court's rationale—rendered through two divergent judicial paths—has created competing lines of authority within the same decision, further muddying the jurisprudential waters. While one judge emphasized waiver and prejudice, the other bypassed the abatement framework altogether, arguing that legal representation in one limb sufficed.

This not only undermines the consistency of procedural jurisprudence but also dilutes the sanctity of the maxim *actio personalis moritur cum persona*, particularly in its procedural dimension. If death extinguishes personal representation, then failure to revive that presence through substitution in each independent appeal cannot be retrospectively cured merely by judicial indulgence.

In effect, *N. Jayaram Reddy* carved out a non-textual exception to the CPC, jeopardizing the finality of appellate adjudication and opening the door to litigation uncertainty where party identity and procedural regularity ought to be inviolable. It exemplifies a judicial moment where substantive justice was prioritized at the cost of procedural discipline, raising serious questions about the boundaries of judicial discretion in abatement jurisprudence.

3. A Questionable Departure: Upholding Decrees in Favour of Deceased Parties

Another instance of an unwarranted judicial exception—lacking clear statutory footing under the Code of Civil Procedure, 1908—can be traced to a series of rulings by the Rajasthan High Court, which deviated from settled procedural law. In **Prahlad Singh Vs. State of Rajasthan**,³⁵ a learned Single Judge inexplicably held that a decree passed in favour of a deceased litigant could not be treated as a nullity, despite the absence of any substitution under Order XXII CPC. Remarkably, the decision provided no cogent rationale or statutory justification for sustaining the validity of such a decree, even though the court passed the Decree in favour of a party who no longer had legal personality.

This deviation is compounded in **Kairatilal & Ors. Vs. State of Rajasthan & Ors.**³⁶, where another Single

³³ (1979 SCR (3) 599),

³⁴ AIR 1931 Mad 277

³⁵ 2005 (42) CivilCC (Rajasthan)

³⁶ 2017 (4) RLW 3439 (Raj.)

Judge of the same Court mechanically followed the reasoning in *Prahlad Singh*—even though by that time, the Supreme Court had conclusively settled the issue in **Gurnam Singh (D) through LRs Vs. Gurbachan Kaur [(2017) 13 SCC 414]**. The apex court in *Gurnam Singh* held in unambiguous terms that any decree passed in favour of a deceased person—without their legal representatives being brought on record—is void *ab initio*, and incapable of sustaining legal rights or obligations.

A BINDING PRECEDENT: SUPREME COURT'S CLARIFICATION IN GURNAM SINGH V. GURBACHAN KAUR (2017)

Amidst the pervasive judicial divergence surrounding the procedural and substantive implications of decrees passed in favour of deceased parties, the Supreme Court's judgment in **Gurnam Singh (D) thr. L.Rs. and Ors. v. Gurbachan Kaur (D) by L.Rs., [(2017) 13 SCC 414]** provided the much awaited clarity-- where the Court unequivocally held that a judgment passed either 'in favour of' or 'against' a deceased party, without substituting legal representatives within the prescribed limitation period, is a legal nullity.'

The apex court reiterated the binding authority of *Kiran Singh v. Chaman Paswan*, AIR 1954 SC 340, affirming that any decree passed by a Court lacking jurisdiction—whether territorial, pecuniary, or due to absence of a party's legal existence—is void *ab initio*, and its invalidity may be set up at any stage, including collateral proceedings. The principle was directly applied in *Gurnam Singh*, where the High Court had proceeded to decree specific performance in favour of and against parties who had died during the pendency of the appeal. The legal representatives of these deceased parties had not been brought on record per Order XXII Rules 3 and 4 CPC, nor were applications filed under **Order XXII Rule 9 CPC** or Section 5 of the Limitation Act to seek revival. The Court, therefore, concluded that:

"The High Court ceased to have jurisdiction to decide the second appeal which stood already dismissed on the 91st day from the date of death. Indeed, there was no pending appeal on and after that date." [para 20]

Crucially, the Court extended this principle irrespective of whether the judgment was beneficial or adverse to the deceased party, reinforcing the constitutional imperative of procedural parity and jurisdictional integrity. The Court expressly rejected any equitable justification that may seek to uphold such decrees based on their purported benefit, declaring:

"It is a settled principle of law that the decree passed by a Court for or against a dead person is a 'nullity.'" [para 22]

This pronouncement directly displaces earlier High Court rulings—including *Prahlad Singh* and *Kairatilal*, where courts wrongly validated decrees passed in favour of deceased parties without adequate statutory basis. The reliance on vague equitable grounds or procedural leniency cannot override the express provisions of Order XXII CPC, nor the fundamental maxim *actio personalis moritur cum persona*.

CONCLUSION: Judicial Certainty and Constitutional Discipline

The doctrine of nullity rests on an uncompromising foundation: any proceeding without procedural or substantive jurisdiction is void *ab initio*. Where a court adjudicates in the name of a party who no longer exists in law, its favourable or adverse decree is a legal nullity, incapable of creating enforceable rights or obligations. Yet, judicial practice has occasionally carved out exceptions in the name of equity—without statutory sanction—thereby diluting the essence of the doctrine of Nullity and introducing conceptual and doctrinal inconsistency. Equity, as a vehicle of justice, must follow law—it should not lead. The maxim "*equity follows the law*" operates as a constitutional protection, precluding courts from supplanting codified procedures with subjective fairness. When the Code of Civil Procedure mandates abatement for non-substitution, no court may revive such proceedings merely on equitable considerations. To do so is to transgress into judicial legislation, collapsing the divide between interpretation and creation of law.

Selective enforcement—preserving favourable outcomes while annulling adverse ones—erodes procedural consistency and invites abuse. Nullity is indivisible: once jurisdiction is compromised, the entire proceeding collapses. Through *the order in Gurnam Singh* the Supreme Court put the confusion to rest by unequivocally holding that adjudication involving a deceased party, without substitution, whether favourable or adverse, is a legal nullity incapable of sustaining any enforceable rights or liabilities that are non-binding in nature. Any judicial deviation from this rule is now *per in curiam*.

The legitimacy of a legal system ultimately lies—not in the popularity of its outcomes, but in the integrity of its process. To tolerate exceptions where the law provides none, is to erode public trust, compromise judicial integrity, and invite constitutional peril. Justice, to be accurate, must be consistent. Where law ends, discretion must not begin.

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29. *V. Uthirapathi v. Ashrab Ali* (2002) 2 SCC 640.
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