

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-15108-CII-2015 &
CM-17667-CII-2015 in/and
FAO-M-250-2013

Date of decision: August 28, 2015

Daljit Singh (deceased through his LRs)

..... Appellants

Prabhjeet Kaur

..... Respondent

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL
HON'BLE MS. JUSTICE RAJ RAHUL GARG**

Present: Mr. R.S. Dhaliwal, Advocate
for the applicants-appellants.

Mr. Bhag Singh, Advocate
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

M. JEYAPPAUL, J. (ORAL)

CM-15108-CII-2015

Heard the submission made by learned counsel for the applicants-appellants.

The main appeal was taken up for hearing on 16.07.2015. None appeared for the appellant. As it was found that the appellant had passed away and no steps had been taken to seek permission to prosecute the appeal by the legal representatives of the deceased-appellant, the appeal was dismissed in default. It is to be noted that none appeared for the respondent right from the very inception of the appeal.

It has been satisfactorily explained by the counsel for the appellant that he could not come to the Court on 16.07.2015 as there was a heavy rush in the parking area of the High Court. It is found that the application had been moved for restoration of the appeal on the very next date.

For all those reasons, the application is allowed and the main appeal is restored to its original file.

CM stands disposed of accordingly.

CM-17667-CII-2015

The present application has been moved by the legal representatives of the deceased appellant-Daljit Singh viz. father, brothers and sisters of the appellant to bring on record the legal representatives to contest the appeal in place of appellant-Daljit Singh who had already died.

Heard the submission made by learned counsel for the legal representatives of the deceased appellant-Daljit Singh.

The deceased appellant-Daljit Singh filed a petition for divorce before the trial Court which was dismissed. As against the above judgment, he preferred the present appeal i.e. FAO No.M-250 of 2013. Now the appellant Daljit Singh has died.

Where the petition for divorce filed by one of the spouses was dismissed, the legal representatives of the spouse whose petition for divorce was dismissed, cannot prosecute the appeal inasmuch as the legal representatives of such a spouse cannot step into the shoes of that spouse who had already died, to canvas for divorce in the appeal. In other words, by substituting the legal representatives of the deceased spouse, no decree for divorce can be granted in favour of deceased spouse.

In the above circumstances, we are of the view that the petition filed under Order 22, Rule 10-A, CPC for bringing on record the legal representatives of the deceased appellant-Daljit Singh does not merit consideration. Therefore, the application stands dismissed.

FAO-M-250-2013

In view of the disposal of the application in CM No.17667-CII of 2015, the appeal is taken up on file. As the appellant has died, as evident from Annexure P-2, nothing survives in the appeal for determination. Accordingly, the appeal stands dismissed.

(M. JEYAPPAUL)
JUDGE

(RAJ RAHUL GARG)
JUDGE

August 28, 2015
Dinesh Bansal