

RSA No. 4141 of 2012 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA No. 4141 of 2012 (O&M)

Date of Decision: 5.9.2017

Labh Singh

.....Appellant

Vs.

Gurmukh Singh

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Nemo.

RAMESHWAR SINGH MALIK J. (ORAL)

Appeal is pending at the motion stage for the last about five years. Earlier it was dismissed in default vide order dated 24.1.2013 and was later on, restored. It was again dismissed in default vide order dated 27.11.2013, which reads as under:-

‘Defendant is in second appeal against the concurrent findings recorded by the Courts below, whereby the suit of the respondent/plaintiff for separate possession by way of partition of land measuring 3 biswas out of the suit land, was decreed by learned Civil Judge (Jr. Div.) Rupnagar, by passing a preliminary decree vide judgment and decree dated 3.3.2001 and final decree was passed by learned Civil Judge (Sr. Div.) Rupnagar vide judgment and decree dated 11.8.2011 and the findings thereof were affirmed in appeal by the learned Addl. District Judge, Ropar, vide judgment and decree dated 21.3.2012 while dismissing the appeal filed by the respondent/defendant.

The present appeal was dismissed in default vide order

dated 24.1.2013, which is reproduced as under:-

“Defendant/appellant is in second appeal aggrieved against the concurrent findings recorded by the courts below, whereby the suit for separate possession filed by the plaintiff/respondent was decreed by the learned trial court vide judgment and decree dated 3.3.2001 and the findings affirmed in appeal by the learned Additional Distt. Judge, Ropar vide judgment and decree dated 21.3.2012.

Since the re-filing of the appeal in September 2012 the case has been listed on six dates. On two occasions, counsel for the appellant had sought adjournment while on the remaining four dates none put in appearance. Same is the position today.”

It appears that the appellant is not interested in pursuing the present appeal.

Dismissed in default.”

Thereafter an application bearing CM No. 1026-C-2013 was filed seeking restoration of the said appeal.

Due to non-representation on behalf of the applicant/appellant the said application was also dismissed in default vide order dated 1.2.2013.

Thereafter, the application for restoration of the appeal was restored and allowed, vide order dated 18.2.2013 and the appeal was ordered to be listed for hearing on 6.5.2013.

Since 6.5.2013, the case has been listed on five occasions including today. Only on one occasion i.e. on 6.5.2013 counsel for the appellant had put in appearance and sought time to address arguments. Thereafter, on the rest of four occasions neither there was any representations on behalf of the appellant nor anyone had appeared to seek adjournment. Same is the position today.

From the above, it is apparent that the appellant is not

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interested in pursuing the present appeal.

Dismissed in default.'

Appeal was restored thereafter, vide order dated 10.12.2013. Nobody came present on behalf of the appellant on the last date of hearing, i.e. 13.2.2017. Similar is the position today. Neither anybody has come present on behalf of the appellant to press this appeal, nor any request for pass over has been made. It seems that neither appellant nor his counsel is interested in pursuing the appeal.

In view of the above, present appeal is dismissed for non prosecution.

5.9.2017
Ak Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No