

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

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RSA No.2756 of 1988 (O&M)

Date of decision:19.11.2018

Hans Raj and others

... Appellants

versus

Om Parkash and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: None for the appellants

...

AMOL RATTAN SINGH, J. (Oral)

1. This appeal has been pending since the year 1988 and was admitted to 'regular hearing' on 2.12.1988, with status quo ordered to be maintained (obviously as it existed on that date). Thereafter, the matter having come up for hearing first on 23.2.2017, on which date it was simply adjourned to 10.8.2017, it thereafter actually came up for hearing on 1.8.2018, when it had been noticed that the learned counsel who had filed the appeal had since been elevated to the Bench and had in fact even retired; therefore the appellants had been ordered to be served of an actual date of hearing for 6.9.2018.

On that date, the report of the Registry was to the effect that notices issued to appellants no.1 to 4 had not been received back, served or otherwise, with appellant no.5 served through his son and in the case of appellant no.6, his house was found to be locked, with him stated to be admitted to hospital.

2. Mr.A.P.Kaushal, who had earlier appeared on 23.2.2017, had

appeared on 6.9.2018 also and had submitted that he was also awaiting a response to his letter written to the appellants. Consequently, the matter was adjourned to 15.10.2018.

3. In the meanwhile, the Registrar (Judicial) had been directed to submit a report as to why notices issued on 1.8.2018 to appellants no.1 to 4 had not been received back, served or otherwise, with it further directed that if any person, either in the Registry of this Court or in the office of the District & Sessions Judge, Pathankot/Gurdaspur, was found negligent, appropriate action be initiated against such person.

The report of the Registrar (Judicial) dated 12.10.2018 (Flag A on the top of the file) is to the effect that the dealing hand of the Registry of this Court had stated in the preliminary enquiry conducted that notices issued to appellants no.1 to 4 were in fact received back by him on 31.8.2018, whereas notices issued to appellants no.5 and 6 were received back by him on 4.9.2018.

However, “inadvertently” the said dealing Assistant (one Shri Manjit Sharma) kept the notices issued to appellants no.1 to 4 in a different folder and therefore a wrong *peshi* report was made by him on 5.9.2018 to the effect that the notices issued to appellants no.1 to 4 had not been received back, served or otherwise.

In the report now submitted, it has been stated that appellants no.1 to 4 have in fact died, with the report on appellants no.5 and 6 being the same as was prior to 6.9.2018.

4. The matter having been listed in the urgent list even today, as was on 16.10.2018 and 29.10.2018, none has appeared since then, either for

the appellants or the respondents.

5. Consequently, with appellants no.1 to 4 having expired, with no application on record seeking to implead their legal representatives, with appellant no.5 having been served through his son but none having appeared for him, and appellant no.6 not found to be present at the time when notice was sought to be served upon him (as per the report of the Registry), there is no option but to dismiss the appeal in default, with the interim order consequently vacated.

However, the appeal having remained pending since the year 1988, it is considered appropriate that in case any of the appellants (or any of their legal representatives) wish to revive the appeal within a reasonable period, they would be at liberty to file an appropriate application for that purpose.

6. As regards the lapse on the part of the dealing Assistant concerned, the Registrar (Judicial) is directed to issue him a warning to remain careful in future.

19.11.2018
pk/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No