

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

CM No. 5478 C of 2018 in/and
RSA No. 3518 of 2010 (O&M)
Date of decision: 12.9.2019

Saranjit Kaur

...Appellant

Versus

Amarjit Kaur and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Chanakya Batta, Advocate, for
Mr. GS Bhatia, Advocate,
for the appellant.

Mr. J.S. Dhaliwal, Advocate,
for respondent No.5.

JAISHREE THAKUR, J.

CM No. 5478 C of 2018

This is an application that has been filed seeking to place on record the affidavit of Jasbir Kaur Sidhu daughter of Saranjit Kaur, appellant herein along with her death certificate.

For the reasons stated in the application, which is supported by an affidavit, the same is taken on record.

CM stands disposed of.

Main case

This Regular Second Appeal has been filed by Saranjit Kaur daughter of Chanchal Singh against the judgments and decree dated 4.4.2005 and 3.2.2010 passed by the trial court and the first Appellate Court

respectively.

In brief, the facts are that the plaintiff/appellant herein had filed a suit for grant of decree of joint possession by partition of agricultural land measuring 20 kanals out of Khata No. 445/486 situated in village Jamalpur Awana, Tehsil and District Ludhiana, based on jamabandi for the year 1976-1977. The suit of the plaintiff/appellant was dismissed on the ground that Chanchal Singh, father of the plaintiff, had already executed a valid will in favour of his son and grand sons, namely defendants in the suit. The appeal too was dismissed, which has been challenged in the present appeal.

During the pendency of the appeal in this Court, learned counsel for respondent No.5 has placed on record an affidavit of Jasbir Kaur Sidhu, who is none else but the daughter of Saranjit Kaur—appellant herein, stating that her mother Saranjit Kaur has since expired and she is not interested in pursuing the present appeal and the same may be dismissed as withdrawn. In the affidavit, it has also been stated that other sons and daughters of Saranjit Kaur are also not interested in pursuing the instant appeal.

On 9.4.2019, learned counsel for the appellant had sought time to verify the factual position regarding other legal representatives not wanting to contest the appeal and also to implead legal representatives of late appellant. However, today he submits that despite making several attempts, he has not been able to contact them. In such a situation, when the appellant has expired, as would be evident from the death certificate, a copy of which is placed on record, this Court has no option but to dismiss the appeal for want of prosecution.

Consequently, the appeal is dismissed for want of prosecution. However, liberty is granted to the legal representatives of the deceased appellant to revive the instant appeal, should they choose to pursue the appeal in place of their late mother. Application, if any, should be filed within four months from today.

12.9.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No