

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

RSA No.2733 of 1988 (O&M)

Date of decision:28.2.2020

Kharak Singh Chela Sant Iqbal Singh

... Appellant

versus

Amolak Singh

... Respondent

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

Present: Mr.S.S.Aviraj, Advocate,
Mr.J.S.Chahal, Advocate,
for the appellant

...

AMOL RATTAN SINGH, J. (Oral)

Mr.S.S.Aviraj appears for Mr.J.S.Chahal counsel for the appellant, and submits that Mr.Chahal is no longer practicing due to his old age.

It is also seen that Mr.S.C.Sibal had appeared for the respondent, as would be obvious from the order sheets of the year 1989.

He too first having been designated as a Senior Advocate, is now no longer in practice.

Consequently, in fact notice had been issued to the appellant as also to the respondent, pursuant to an order passed by this court on 10.4.2019.

The report of the Registry is to the effect that the appellant remained unserved as he is stated to have died in June, 2005, with notice issued to the sole respondent not having been received back served or otherwise

That being so, with the sole appellant having died and no legal

representative ever having filed any application seeking to be impleaded in his place, there is no choice but to dismiss this appeal in default, even though it has remained pending since the year 1988, with it to be noticed that the suit was one filed by the appellant-plaintiff seeking a decree of permanent injunction restraining the respondent-defendant from interfering in the appellants' possession of the suit property, with both the learned courts below having dismissed the suit.

It is also seen from the order sheets that there does not seem to be any interim order passed at any stage in the appeal.

Hence, the appeal is dismissed in default.

However, it being an appeal of the year 1988, if the legal representatives of the appellant move an application for restoration, that would be considered on its own merits.

28.2.2020
pk/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No