

Sr. No.347

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

RSA-782-1989 (O&M)

Date of Decision: 17.02.2020

Sona Ram and Others

... Appellant

Versus

Kundan Lal and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr.C.B.Goel, Advocate
for the appellant.

ARUN MONGA, J.(ORAL)

The present Regular Second Appeal arises out of the original suit filed in the year 1982 wherein plaintiff-respondent had sought permanent injunction against the respondent restraining him for constructing a wall in any manner in the street in question and also for mandatory injunction for demolition of wall allegedly constructed in the street by the defendant.

The trial Court had originally dismissed the suit, however, on a appeal preferred by the plaintiff, the first Appellate Court reversed the findings and passed a judgment and decree dated 28.10.1988 whereby the defendants were restrained in terms of the prayers made by the plaintiff. The office report/record of the case reflects that during the pendency of the second Appeal, the respondent-plaintiff has expired. After his death, his LRs have not been impleaded. In the premise, this Court is of the view that the judgment and decree passed by the first Appellate Court is unlikely to be executed as after the death of the

plaintiff, there seems to be no one to really enforce the same. The present appeal is rendered infructuous on the death of the plaintiff/respondent and is accordingly disposed of with liberty to the appellant to file appropriate application, in case, at some later stage the judgment and decree passed by the first Appellate Court is sought to be enforced against them.

Disposed of as having been rendered infructuous.

17.02.2020
Sonu

(ARUN MONGA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No