

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
RSA-1531-1991 (O&M)
Date of decision: 05.01.2023

Banta Singh and another

...Appellants

VS

Surjit Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None for the parties.

ARUN MONGA, J. (ORAL)

This is the appellant-defendants' second appeal against the judgment of reversal. The trial Court dismissed the suit for permanent injunction filed by the plaintiffs-respondents herein, but lower appellate Court reversed the judgment and decree of the trial Court and accordingly, decreed the suit and the appellants-defendants have, therefore, filed the present regular second appeal in this Court.

2. Vide judgment and decree dated 19.12.1988 passed by the trial Court, suit was dismissed and the same was allowed in appeal vide which appellant was directed not to interfere in the peaceful use of passage marked as ABC shown in Annexure P-1. Subsequently, feeling aggrieved, the defendants had come in appeal which was admitted vide order dated 16.09.1991 and no stay was granted. Appellants have acquiesced to the injunction by not interfering in the passage. When called out after so many years, none has put in appearance on behalf of the appellants. In this context, it is important to note that a specific notice has been issued in the cause list, as well as, on the notice Board of the Court room, stating ***"In the category of "To Be Taken UP" Regular matters shown in the daily cause list, if learned counsel still do not appear, it would be an indicator that they are not interested in pursuing the same and the cases shall then be decided regardless of their presence. Learned counsels are, therefore, requested to watch***

the regular cause list of the Court.” Notwithstanding none appears. Court is left with no choice but to dismiss the petition.

3. Even otherwise by sheer effluxion of time and pendency of the appeal for more than 31 years before this Court, either it has been rendered infructuous or else the appellants seem to have lost interest in pursuing the same.

4. Be that as it may, appeal is dismissed with liberty to the appellants to file an appropriate application in case any cause of action still survives.

5. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

January 5, 2023

Vandana

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No