

IOIN- RSA-224-1995 in/and
RSA-224-1995 (O&M)

-1- 2023:PHHC:142209

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

201

IOIN-RSA-224-1995 in/and
RSA-224-1995 (O&M)

Date of Decision: 06.11.2023

Karam Singh

.... Appellant

Versus

Rajo

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - None.

NIDHI GUPTA, J. (ORAL)

This is the plaintiff/appellant's second appeal against the judgment and decree dated 21.10.1994, rendered by the learned lower Appellate Court, reversing the judgment and decree dated 24.10.1991, passed by the trial Court allowing the 'suit for possession by way of specific performance' filed by the plaintiff/appellant herein.

Perusal of the record shows that vide letters Nos 39796 and 1735 dated 19.11.2018 and 12.02.2019, respectively, the learned District and Sessions Judge, Hoshiapur, was requested to reconstruct the record of the instant second appeal. Pursuant thereto, report from the learned District and Sessions Judge, Hoshiarpur, has been received vide letter dated 08.03.2019, wherein it has been reported that the matter was entrusted to the Court of learned Additional Civil Judge, Dasuya, who had issued notice to the parties which were received back with the report that they have expired. Thereafter, notice to their counsels Sh. Jaswant

Singh, and Mr. R.S. Terkiana, Advocates was issued. Notice issued to Sh. Jaswant Singh, Advocate was received back with the report of President of Bar Association and Nazir, Hoshiarpur to the effect that 'no Advocate namely Jaswant Singh is practicing at District Court, Hoshiarpur'; whereas in pursuance to the notice issued to Sh. R.S. Terkiana, Advocate, the said learned counsel appeared and got recorded his statement to the effect that 'no document was available with him pertaining to this case'. It is further reported that every effort was made to reconstruct the aforesaid case file, but no document has been received for reconstructing the requisitioned case file. Thereafter, notices have been issued to both the parties.

As per office report dated 02.11.2023, notices issued to both the parties in pursuance to the order dated 03.07.2023 through SHO concerned and also through Sarpanch, have been received back with the report that both the appellant and the respondent have expired.

Perusal of order sheets shows that the appellants have gone un-represented on the last two dates of hearing i.e. on 05.09.2019 and 03.07.2023.

In the aforesaid premise, issuance of fresh notice to the parties/their LR's, if any, would be a futile exercise. It appears that due to sheer long pendency of the present second appeal before this Court for a period of more than 28 years, the parties have lost interest in pursuing the same, as no attempt has been made by them to contact their previous counsel or to engage a new counsel.

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Be that as it may, in view of the foregoing circumstances, the instant regular second appeal is dismissed for non-prosecution, with liberty to the either of the parties to move an appropriate application for reviving the same, if so, advised.

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

IOIN also stands disposed of, accordingly.

06.11.2023
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No