

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

219

RSA-2345-1996 (O&M)

Date of Decision: 28.11.2023

Smt. Munni Devi and another

.... Appellants

Versus

Shiv Kumar and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - None.

NIDHI GUPTA, J. (ORAL)

The matter has come up for hearing after the year 2019.

This is the plaintiff/appellants' second appeal against the concurrent findings returned by the learned trial Court vide judgment and decree dated 07.01.1992, dismissing the 'suit for permanent injunction' filed by the appellants herein with costs. The Civil Appeal No. 212 of 1995 preferred by the appellants was also dismissed by the Ist Appellate Court, vide judgment and decree dated 27.05.1996.

Perusal of the order sheets reveals that since the year 2011, the appellants have gone represented on various dates i.e. 09.11.2011, 07.12.2011, 24.05.2017 and 07.01.2019. Further, on 04.02.2019, when this matter was listed for hearing, a co-ordinate Bench of this Court while dismissing the present appeal for non-prosecution on account of non-appearance on behalf of the appellants, had observed that both the appellants have expired and learned counsel appearing for the respondents submits that the dispute between the parties had already been resolved. Liberty was also granted to move an application for

revival, if anything survives in the appeal. Thereafter, vide order dated 24.04.2019 the instant appeal was restored to its original number and the LR's of appellants No. 1 and 2 were also brought on record. It is pertinent to mention here that both the parties have gone un-represented on the said date
i.e. 24.04.2019.

Today also, none has put in appearance on behalf of either of the parties, despite the case having been called twice.

In the aforesaid premise, issuance of fresh notice to the LR's of deceased-appellants 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 27 years, they have lost interest in pursuing the same, as no attempt has been made by them to contact their previous counsel or to engage new counsel. More so, on 04.02.2019, when this appeal was listed for hearing, learned counsel for the respondents had stated that the parties have already resolved their dispute.

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 appellants to move an appropriate application within a period of 06 months for reviving the same, if so, advised.

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

28.11.2023
rishu

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No