

RSA-749-2014 (O&M)

Date of Decision :01.02.2023

Surjit Chand

...Appellant

Versus

Sham Lal and another

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : None.

B.S. Walia, J. (Oral)

[1] Challenge in the instant regular second appeal is to judgment and decree dated 16.07.2013 passed by the learned Additional District Judge, Fazilka in Civil Appeal RBT No.103 dated 18.11.2011 whereby the judgment and decree dated 05.10.2011 passed by the learned Civil Judge (Jr. Div.), Abohar was set aside and the civil suit filed by respondent No.1-Sham Lal was decreed.

[2] The appeal is of the year 2014. On 30.05.2014, none was present on behalf of the appellant and the case was adjourned to 03.11.2014. On the said date, the matter was not taken up. Thereafter, the matter was taken up for hearing on 24.08.2015 and on the said date, again none was present on behalf of the appellant whereupon the case was adjourned to 29.09.2015. On 29.09.2015, again none was present on behalf of the appellant, therefore, the appeal was dismissed for default of appearance and non-prosecution. On 08.09.2016 for the reasons as mentioned in the application, the case was restored to its original number. Then on 22.05.2018, it was adjourned to 24.05.2018. On 24.05.2018 notice of motion was issued for 14.08.2018. On 18.09.2018, it was

recorded that as per office report, respondent No.1 had died whereas respondent No.2 had been served but respondent No.1 was the contesting respondent as per the memo of parties, therefore, learned counsel for the appellant was directed to take steps to bring on record the legal heirs of respondent No.1 so as to enable the office to serve them and the case was adjourned to 29.10.2018. On 29.10.2018, legal heirs of respondent No.1 were brought on record for the purpose of defending this appeal only and notice was issued to the newly impleaded legal heirs of respondent No.1 for 23.01.2019. On 22.08.2019, learned counsel for the appellant was directed to furnish correct addresses of respondent Nos.1(ii) and 1(iii) within two weeks and in case of non-compliance of the order in letter and spirit, it was ordered that the instant petition would entail dismissal for want of prosecution.

[3] As per office report dated 30.01.2023, notice could not issued to respondent Nos.1(ii) and 1(iii) for want of furnishing of correct addresses.

[4] Neither has correct address of respondent Nos. 1(ii) & 1(iii) been furnished nor is anyone present on behalf of the appellant.

[5] Dismissed for non-prosecution.

(B.S. Walia)
Judge

01.02.2023
'Amit'

Whether speaking/ reasoned : Yes/No
Whether reportable : Yes/No