IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE AVANINDRA KUMAR SINGH

ON THE 2nd OF JANUARY, 2024

SECOND APPEAL No. 289 of 2013

BETWEEN:-

1. **DHAN LAL SIRSE S/O LATE SHRI RAMA SIRSE, AGED ABOUT 85 YEARS, C/OASHOK SIRSE KADU COLONY IN FRONT OF CLINIC OF DR. KOLHE SAUSAR DISTRICT CHHINDWARA (MADHYA PRADESH)**

2. **SMT. PHOOLA BAI SIRSE W/O SHRI DHAN LAL SIRSE, AGED ABOUT 75 YEARS, C/O ASHOK SIRSE KADU COLONY, IN FRONT OF CLINIC OF DR. KOLHE, SAUSAR DISTRICT CHHINDWARA (MADHYA PRADESH)**

3. **KISHAN LAL SIRSE S/O LATE SHRI RAMA SIRSE, AGED ABOUT 70 YEARS, VILL. BERDI, TAHSIL SAUSAR DISTRICT CHHINDWARA (MADHYA PRADESH)**

4. **AMAR LAL SIRSE S/O LATE SHRI RAMA SIRSE, AGED ABOUT 67 YEARS, OCCUPATION: RETIRED BANK MANAGER NEAR BUS STOP DAMUWA, TAH. JUNNARDEV DISTRICT CHHINDWARA (MADHYA PRADESH)**

.....APPELLANT

(NONE FOR THE APPELLANT)

AND

1. **RADHA BAI SIRSE W/O LATE SHRI NATHTHOO SIRSE, AGED ABOUT 90 YEARS, VILL LODHIKHEDA TAH SAUSAR DISTRICT CHHINDWARA (MADHYA PRADESH)**

2. **KALAWATI SIMRE W/O LATE NATHTHOO SIMRE, AGED ABOUT 52 YEARS, DAUGHTER OF LATE SHRI NATHTHOO SIRSE VILL. LODHIKHEDA, TAH. SAUSAR DISTRICT CHHINDWARA (MADHYA PRADESH)**

3. THE STATE OF MADHYA PRADESH THROUGH COLLECTOR CHHINDWARA (MADHYA PRADESH)

.....RESPONDENTS

(SHRI ASHOK CHAKRAWORTY - ADVOCATE FOR RESPONDENT NO.2. SHRI TEEKARAM KURMI - P.L. FOR THE STATE/RESPONDENT NO.3)

This appeal coming on for orders this day, the court passed the following:

ORDER

Lower court record is received on the last date of hearing.

At the outset, learned counsel Shri Ashok Chakraworty submits that respondent No.1 Radha Bai has expired on 1.12.2023. Time was granted to move appropriate application. He further submits that no application has been filed. On 20.10.2023, no one appeared for the appellant. As per office note dated 27.6.2023, I.A. No.7930/2018 is still pending for dismissal of the appeal as abated due to the death of the Appellants No.1 and 4.

No one appeared for the appellant on 15.12.2020, no one appeared for the appellant on 29.1.2021. I.A. No.7930/2018 is pending for consideration filed by the respondent on 27.6.2018. Copy is given to the learned other counsel. In the application, it is mentioned that on 29th September, 2016, appellant No.1 Dhan Lal Sirse has expired, and on 16.12.2017 Appellant No.4 Amar Lal Sirse has expired. No application for substitution of L.Rs. is there. Affidavit by Smt. Kalawati is there on record. Death Certificate of Amar Lal dated 16.12.2017 is there.

Therefore, looking to the facts and circumstances of the case as mentioned above, due to non-appearance and as two appellants have expired, this appeal is dismissed for want of prosecution and on the ground of abatement.

Let a copy of this order be sent to the concerned court along with lower court record.

(AVANINDRA KUMAR SINGH)
JUDGE

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