

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

201-A

RSA-1195-1995 (O&M)

Date of Decision: 31.01.2024

Smt. Jogindero @ Joginder Kaur

.... Appellant

Versus

Gurmej Kaur and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - None for the appellant.

Mr. Varun Aryan Sharma, Advocate
for respondent No. 1.

Mr. K.S. Rawat, Advocate for
Mr. G.S. Nagra, Advocate
for respondents No. 3 to 5, 7 and 8.

NIDHI GUPTA, J. (ORAL)

The instant Regular Second Appeal has been preferred by Smt. Jogindero @ Joginder Kaur, legal representative of defendant No. 1-Gango (since deceased) against the judgment and decree dated 14.10.1994 passed by the Ist Appellate Court, dismissing the appeal filed by the appellant herein against the judgment and decree dated 06.04.1988 rendered by the learned trial Court, vide which the '*suit for declaration*' filed by plaintiff/respondent No. 1 herein was decreed holding her to be the owner of 1/3rd share in the total suit land measuring 417 Kanals 10 marlas etc. leaving the parties to bear their own costs.

It is pertinent to mention here that the learned Ist Appellate Court, vide impugned judgment of even date had accepted the connected appeal filed by defendants No. 4 and 5/respondents No. 4 and 5 herein,

bearing Civil Appeal No. 107 of 1993, titled as ‘Bhupat Singh and Hardit Singh @ Hardev Singh vs. Gurmej Kaur and others’.

Perusal of the file shows that on the last date of hearing i.e. 30.10.2023, at the request of learned counsel appearing for the appellant, fresh notice was ordered to be issued to the sole appellant, as despite her best efforts, she was unable to establish contact with her client.

Pursuant thereto, as per office report 25.01.2024, notice issued to the sole appellant has been received back with the report 'died'.

In the aforesaid premise, issuance of fresh notice to LRs of the deceased sole appellant, if any, would be a futile exercise as LRs of the deceased appellant have not taken any steps to implead themselves and no attempt has been made by them to contact previous counsel or to engage a new counsel. It appears that due to sheer long pendency of the present second appeal before this Court for a period of more than 28 years, they have lost interest in pursuing the same.

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 LRs of deceased/appellant, to move an appropriate application within a period of 03 months from today for reviving the same, if so, advised.

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

31.01.2024

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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No