

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

201

RSA-164-1995 (O&M)

Date of Decision: 18.01.2024

Jai Narayan (since deceased) through his LR's and others

.... Appellants

Versus

Jugti and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Pulkit Kumar, Advocate for
Mr. Roopak Bansal, Advocate for the appellants.

None for the respondents.

NIDHI GUPTA, J. (ORAL)

After remaining unsuccessful before both the Courts below, the defendant/appellants herein, have filed the instant Regular Second Appeal, against the judgment and decree of Ist Appellate Court dated 28.11.1994, affirming the judgment and decree of the trial Court dated 14.02.1992, whereby the 'suit for possession' filed by the plaintiff/respondents was partly decreed against the defendant/appellants.

On 06.12.2023, when this case was listed for hearing before this Court, following order has been passed:-

"The matter pertains to the year 1995.

Perusal of the file shows that the present appeal has been fixed for hearing in IOIN for effecting service upon both the parties since the year 2019. In the order dated 22.05.2019, a co-ordinate Bench of this Court had observed that learned counsel for the appellant had not responded to the communication sent by the Registry and notices to the appellants/substituted appellants were ordered to be issued to ensure the completion of steps for effecting service upon unserved respondent No. 3, for 10.01.2020. Further, when this case was listed for hearing on 11.02.2020, it was observed that "in spite of service, none has put in

appearance on behalf of appellants nos. 1(i) to 1(iii), 3(i) to 3(v). Appellant no. 2 is reported to have died. Fresh notice to appellant nos. 1(iv) and 1(v) be issued for 01.05.2020”.

On 12.10.2022, when this matter was listed for hearing, following order was passed:

“Office report seen.

In view of the same, complete address of respondent No. 3 has not been furnished. Even, summons of appellants No. 1(iv) and 1(v) had not been received back.

In view of the same, necessary intimation be sent to learned counsel for the appellants to furnish correct address of respondent No. 3.

Fresh notice be again issued to appellants No. 1(iv) and 1 (v) 20.01.2023.”

Pursuant thereto, fresh office report dated 04.12.2023, reads as under:-

<i>Parties</i>	<i>Service report</i>
<i>Respondents No. 1, 2 and 4</i>	<i>Represented by counsel.</i>
<i>Respondent No. 3</i>	<i>Letter No. 8296 dated 20.10.2022 issued to Mr. S.K. Bansal Advocate for providing fresh address of respondent No. 3 has been received back with the report that Mr. S.K. Bansal, Advocate has passed away.</i>
<i>Appellants Nos. 1(i) to 1(iii); Appellant No. 3(i) to 3(iv)</i>	<i>Notices received back duly served. However, none has put in appearance on their behalf.</i>
<i>Appellant No. 2</i>	<i>Notice received back with the report ‘died’.</i>
<i>Appellant No. 3(v)</i>	<i>Notice received back served through sister which is a valid service. However, none has put in appearance on her behalf.</i>
<i>Appellants No. 1(iv) and 1 (v)</i>	<i>Notices received back unserved for want of complete address.</i>

In the aforesaid premise, issuance of fresh notice to either of the parties 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, both 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.

Accordingly, the IOIN stands disposed of.

Registry is directed to list the main appeal for final hearing on 18.01.2024.”

Today learned counsel appearing for the appellants submits

that despite having writing letter to the LRs of the deceased/appellants, no instructions have been received in the matter. Thus, it appears that they are not interested in pursuing the instant second appeal and the same may be disposed of, as having been rendered infructuous/for want of prosecution as well.

Be that as it may, in view of the foregoing circumstances,
the instant regular second appeal is dismissed for non-prosecution.

18.01.2024

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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No