

RSA-277-1995 (O&M) and
XOBS-17-C-1996

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2024:PHHC:007439

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

201

RSA-277-1995 and
XOBS-17-C-1996

Date of Decision: 19.01.2024

Maha Singh

.... Appellant

Versus

Surta and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - None.

NIDHI GUPTA, J. (ORAL)

This is the defendant No. 3/appellant's second appeal against the judgment and decree dated 17.11.1994 passed by the Ist Appellate Court, vide which the appeal filed by the plaintiff/respondents No. 1 and 2 herein, was allowed, reversing the judgment and decree dated 12.08.1993 rendered by the learned trial Court, dismissing their 'suit for declaration'.

Perusal of the file shows that on 18.10.2023, when this case was listed for hearing, there was no representation on behalf of the appellant, despite the fact that learned counsel for the appellant had been duly informed about the date fixed, and the case was adjourned to 04.12.2023. On 04.12.2023, again the appellant had gone un-represented. Learned counsel appearing for cross-objectors/respondents No. 1 and 2 also pleaded no instructions in the matter and the Registry was directed to issue actual date of hearing notices to the appellant as well as respondents No. 1 and 2 for i.e. 20.12.2023.

On 20.12.2023, when this case was listed for hearing, following order has been passed by this Court:

“Perusal of the file shows that vide order dated 04.12.2023, actual date of hearing notices were ordered to be issued to the appellant and respondents No. 1 and 2.

Pursuant thereto, perusal of office report dated 19.12.2023 reveals that (i) notice issued to the sole appellant has been received back duly served; (ii) notice issued to respondent No. 1 has been received back served through his grandson which is a valid service; and (iii) notice issued to respondent No. 2 has been received back with the report ‘died’.

However, there is no representation on behalf of either of the parties.

In the interest of justice, adjourned to 19.01.2024.”

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

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/cross-objections 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.

Be that as it may, in view of the foregoing circumstances, the instant regular second appeal as well as XOBS-17-C-1996 are hereby dismissed for non-prosecution.

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

19.01.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No