

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

204

RSA-482-1995 (O&M)

Date of Decision: 24.01.2024

Pritam Kaur (now deceased) through LR

.... Appellant

Versus

Jalandhar Improvement Trust, Jalandhar and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - None.

NIDHI GUPTA, J. (ORAL)

After remaining unsuccessful before both the Courts below, the plaintiff/appellant, has filed the instant Regular Second Appeal, against the judgment and decree of Ist Appellate Court dated 11.08.1994, affirming the judgment and decree of the trial Court dated 18.01.1991, whereby the '*suit for declaration and mandatory injunction*' filed by the plaintiff/appellant was dismissed.

It is pertinent to mention here that at the trial Court stage, the plaintiff/appellant-Pritam Kaur, had died and was represented through her LRs, namely; Harbans Kaur and Paramjit Singh. However, the present second appeal has been filed only by Parmajit Singh, one of the LRs of appellant-Pritam Kaur; whereas Harbans Kaur, the other LR of Pritam Kaur was impleaded as proforma respondent No. 2 herein.

On the last dated of hearing i.e. 19.10.2023, as also today, there is no representation on behalf of either of the parties.

On 19.10.2023, when this case was listed for hearing before this Court, following order was passed:-

“As per office report, registered A.D. notice issued to respondent No. 2 has been received back unserved with the remarks ‘incomplete address’. It has further been reported that Sh. NBS Gujral and Sh. S.C. Pathela, Advocates earlier appearing on behalf of respondent No. 1-Trust could not be informed about the date fixed as their names have not been found in the Bar Directory.

In the interest of justice, actual date notices be issued to the appellant as well as the respondents for 24.01.2024, through registered post/A.D.”

Pursuant thereto, as per office report, notice issued to Paramjit Singh, one of the LR of sole appellant and Harbans Kaur, the other LR of sole appellant impleaded as proforma respondent No. 2 herein, have been received back unserved with the report ‘incomplete address’; whereas registered notice issued to respondent No. 1 vide letter No. 2836 dated 15.01.2024, has not been received back either served or otherwise.

In the aforesaid premise, issuance of fresh notice to the LR of sole appellant 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 28 years, the plaintiff-appellant’s LR, has lost interest in pursuing the same, as no attempt has been made by Paramjit Singh-LR of the sole appellant to contact his previous counsel or to engage a new

counsel.

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 LR of the appellant, to move an appropriate application within a period of 06 months from today for reviving the same, if so, advised.

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

24.01.2024

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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No