

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

205

RSA-504-1995 (O&M)

Date of Decision: 24.01.2024

Hari Ram

.... Appellant

Versus

Mangat Ram and others

.... 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 18.01.1995, affirming the judgment and decree of the trial Court dated 01.04.1989, whereby the '*suit for mandatory injunction*' filed by the plaintiff/appellant was dismissed.

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

"As per office report, learned counsel for the appellant has been informed about the date fixed through e-mail. However, none has put in appearance on his behalf.

It has further been reported that learned counsel for the respondents could not be informed as he has been elevated to the Bench of this Court.

Let actual date notices be issued to the appellant as well as the respondents for 24.01.2024, through registered post/A.D."

Office report dated 19.01.2024, reveals that in terms of order

dated 19.10.2023, notices issued to the appellant and respondents No. 1 and 2 have been received back with the report '*died*'; whereas notice issued to respondent No. 3 has been received back unserved with the report that "*the person met at the given address has refused to accept notice and stated that the person/respondent No. 3 who has filed the case has expired and he has no concern with the present case*".

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 28 years, the plaintiff/appellant, has lost interest in pursuing the same, as no attempt has been made by him or his LRs to contact 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 appellant/his LRs, 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