

**XOBJR-6-C-1996 and
RSA-505-1995 (O&M)**

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2024:PHHC:011431

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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XOBJR-6-C-1996 and
RSA-505-1995 (O&M)

Date of Decision: 29.01.2024

Jangir Kaur

.... Appellant

Versus

Balwinder Singh @ Binder Singh and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - None for the appellant.

None for respondents No. 1 and 2.

Service of respondents No. 3 to 8 exempted vide order dated
10.09.2004.

Respondent No. 9-died.

NIDHI GUPTA, J. (ORAL)

After remaining unsuccessful before both the Courts below, defendant No. 1/appellant herein, has filed the instant Regular Second Appeal, against the judgment and decree of Ist Appellate Court dated 04.10.1994, affirming the judgment and decree of the trial Court dated 05.11.1992, whereby the '*suit for possession and also for declaration*', filed by the plaintiff/respondents No. 1 and 2 herein, was partly decreed, inasmuch as, the plaintiffs were held to be owner of the suit land, but not entitled to possession as they were co-sharers along with others and were required to seek possession of the suit land through Revenue Court by

way of partition.

The plaintiff/respondents No. 1 and 2 have also filed cross-objections bearing XOBJR-6-C-1996.

There is no representation on behalf of either of the parties.

Perusal of the file shows that on the last date of hearing i.e. 19.10.2023, nobody had put in appearance for the appellant or respondents No. 1 and 2 despite having been informed about the date fixed through e-mail, as noted in office report. Thereafter, the Court had directed the Registry to issue actual date notices to the appellant as well as the respondents No. 1 and 2 for 29.01.2024, through registered post/A.D.

Pursuant thereto, as per office report dated 23.01.2024, notices issued to the sole appellant and respondents No. 1, 2 and 9 have been received back with the report 'died'.

In the aforesaid premise, issuance of fresh notice to either of the parties/their LR's 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 appellant, as well as the plaintiff/cross-objectors/respondents No. 1 and 2, have lost interest in pursuing the same, as no attempt has been made by them or their LR's 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 XOBJR-6-C-1996, are dismissed for non-prosecution, with liberty to the LR's of the sole appellant and LR's of plaintiff/respondents No. 1 and 2, to move an

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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.

29.01.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No