

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

203

RSA-516-1995 (O&M)

Date of Decision: 29.01.2024

Kapoor Singh

.... Appellant

Versus

Mohinder Singh and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - None.

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 1st Appellate Court dated 12.09.1994, affirming the judgment and decree of the trial Court dated 20.03.1991, whereby the '*suit for declaration*', filed by the plaintiffs/respondents No. 1 and 2 herein, was decreed.

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

Perusal the file shows that on the last date of hearing i.e. 19.10.2023, the Registry had reported that learned counsel earlier representing the sole appellant had informed on telephone that the appellant had taken back the brief from him long time back. Thus, actual

date of hearing notice was ordered to be issued to the sole appellant through registered post/A.D.

Pursuant thereto, as per office report, notice issued to the sole appellant has been received back with the report ‘died’.

In the aforesaid premise, issuance of fresh notice to LR’s of the deceased sole appellant, if any, would be a futile exercise as LR’s of the deceased appellant have not taken any steps to implead themselves and no attempt has been made by them to contact previous counsel or to engage a new counsel. It appears that due to sheer long pendency of the present second appeal before this Court for a period of more than 28 years, they have lost interest in pursuing the same.

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’s of deceased/appellant, to move an 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
Rishu/sunena

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No