



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA-4258-2017 (O&M)

Date of Decision: 05.02.2025

Mahabir Singh

.... Appellant

Versus

Munish Kumar 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, has filed the instant Regular Second Appeal, against the judgment and decree of Ist Appellate Court dated 23.09.2016 affirming the judgment and decree of the trial Court dated 06.09.2013, whereby the “*suit for declaration with consequential relief of permanent injunction*” filed by the plaintiff/appellant was dismissed.

The matter pertains to the year 2017 and notice is yet to be issued in the same.

Perusal of the order-sheets reveals that earlier this matter was listed for hearing 10 times i.e. on 17.09.2018, 23.10.2018, 29.01.2019, 23.05.2019, 26.08.2019, 27.02.2020, 12.10.2023, 04.01.2024, 01.04.2024 and 10.07.2024; and on each and every date, the same was adjourned at the request of learned counsel for the appellant. On 12.10.2023, when this case was listed for hearing, learned counsel appearing for the appellant had informed that the sole appellant had expired and sought time to clarify as to whether the LRs want to pursue



the case or not. Thereafter, on the next date of hearing i.e. 04.01.2024, the appellant had gone un-represented and following order was passed by a co-ordinate Bench of this Court:-

“On the previous hearing, learned counsel for the appellant had sought time to seek instructions as to whether the legal representatives of deceased/sole appellant want to pursue the present appeal or not. Today, there is no representation.

In the interest of justice, adjourned to 01.04.2024.

It is, however, made clear that in the given circumstances, if no one puts in appearance to press this appeal on the next date or take necessary steps to implead the legal representatives of the appellant, the instant appeal would be liable to be dismissed for want of prosecution.”

On the next date of hearing i.e. 01.04.2024, the case was adjourned in terms of a written request for an adjournment circulated by learned counsel for the appellant; and thereafter, on the last date of hearing, learned counsel for the appellant had sought time to comply with the order dated 04.01.2024 reproduced above and the case was adjourned for today.

Today, there is no representation on behalf of the appellant, despite the case having been called twice. Therefore, it can safely be presumed that the appellant or his counsel is not seriously interested in pursuing the instant second appeal. Thus, this Court is left with no other option except to dismiss the present second appeal for non-prosecution.

Ordered accordingly.

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

05.02.2025
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No