
(2021) 10 SHI CK 0035

In the High Court Of Himachal Pradesh

Case No : Regular Second Appeal No. 436 Of 2019

Meda Devi And Others

APPELLANT

Vs

Mast Ram Son Of Shri Punu Ram And Others

RESPONDENT

Date of Decision : 21-10-2021

Acts Referred:

Citation : (2021) 10 SHI CK 0035

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : K.D. Sood, Het Ram Thakur, Neeraj Gupta, Shradha Karol

Final Decision : Disposed Of

Judgement

Ajay Mohan Goel, J

1. By way of this regular second appeal, the appellants have challenged the judgment passed by the Court of learned District Judge, Mandi, District Mandi, H.P. in Civil Appeal No. 37 of 2017, titled as Mast Ram and another vs. Meda Devi and others, vide which, learned Appellate Court, while accepting the appeal filed by the appellants therein, set aside the judgment and decree dated 12.08.2016, passed by the Court of learned Civil Judge (Jr. Divn.) Chachiot at Gohar, District Mandi, in civil suit No. 17/2010, titled as Smt. Meda Devi and others vs. Sh. Bangali and others, which suit stood decreed by the learned Trial Court.

2. When this appeal was taken up for consideration, Mr. K.D. Sood, learned Senior Counsel appearing for the appellants informs the Court that the judgment and decree passed by the learned first Appellate Court is not sustainable in the eyes of law inter alia for the reasons that the judgment stood passed by the learned first Appellate Court ignoring the factum of death of one of the parties before it, namely, Shri Chamari, who died on 27th February, 2019.

3. This fact could not be disputed by learned Senior Counsel appearing for the

contesting respondents in this appeal.

4. Hon'ble Supreme Court of India in Gurnam Singh (Dead) Through Legal Representatives and Others versus Gurbachan Kaur (Dead) by Legal Representatives (2017) 13, Supreme Court Cases 414 (Civil Appeal No. 5671 of 2017, decided on 27.04.2017), has held that a judgment which is passed by a Court, ignoring the death of a party, is a nullity.

5. In this view of the matter, this Court has no option but to set aside the judgment and decree passed by the learned first Appellate Court (District Judge, Mandi), which stands challenged by way of this regular second appeal. Ordered accordingly.

6. This appeal is thereafter allowed and the judgment and decree passed by learned District Judge, Mandi, District Mandi, H.P. in Civil Appeal No. 37 of 2017, titled as Mast Ram and another versus Meda Devi and others, dated 27.07.2019, is set aside on the ground that the appeal stood decided by the learned Appellate Court, ignoring the factum of death of a party before it, namely, Shri Chamari, and the matter is remanded back to the learned first Appellate Court with the direction to proceed with the same as from the stage of death of respondent Chamari. It is clarified that in case any application is filed by the appellants therein to bring on record legal representatives of deceased- respondent, then, appropriate orders on the same shall be passed by learned Court below on merit, uninfluenced by any observation made by this Court in the disposal of this appeal. Endeavour shall be made to decide the appeal by the learned Appellate Court as expeditiously as possible and preferably within a period of six months from today.

7. Represented parties through Counsel are directed to appear before learned first Appellate Court on 22.11.2021. Record of the case be sent back to learned Court below forthwith.

The appeal stands disposed of in above terms, so also pending miscellaneous application(s), if any.