
(1989) 08 P&H CK 0164
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1827 of 1988

Saraswati and Others

APPELLANT

Vs

Hazari Lal and Others

RESPONDENT

Date of Decision : 08-08-1989

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 16 Rule 7A, Order 22 Rule 4 , Order 22 Rule 4(1)

Citation : (1990) 2 ILR (P&H) 218 : (1989) 96 PLR 604

Hon'ble Judges : J.V. Gupta, J

Bench : Single Bench

Advocate : Rakesh Kumar Jain, for the Appellant; Ajay Lamba, for the Respondent

Judgement

J.V. Gupta, J.—This revision petition is directed against the order of the trial Court, dated June 14. 1988, whereby the application filed on behalf of the legal representatives of deceased Bhal Singh Defendant, has been dismissed as barred by time.

2. It is no more disputed that there was no limitation for bringing on record the legal representatives of the deceased Defendant in view of the amendment of this Court in Order 22, Rule 4, Code of Civil Procedure,—vide Punjab Government Gaz., 11th April, 1975, Part II, wherein it has been provided that if within the time limited by law, no application is made under Sub-rule (1) the suit shall not abate as against the deceased-Defendant and judgment be pronounced notwithstanding the death and shall have the same force and effect as if it had been pronounced before the death took place. That being so, the question of abatement does not arise and the legal representatives were entitled to be brought on the record at any time.

3. Consequently, this petition succeeds; the impugned order is set aside and the application for bringing on record the legal representatives is allowed. Since further proceedings were stayed at the time of motion hearing by this Court, the

parties are directed to appear in the trial Court on September 4. 1989.

4. Since the suit was filed in the year 1985, it is directed that the parties will lead their evidence at their own responsibility for which one opportunity be given to each party. However, dasti summons may be given, if so desired, as contemplated under Order 16, Rule 7-A, Code of Civil Procedure