
(1966) 03 P&H CK 0005

In the Punjab And Haryana At Chandigarh

Case No : Civil Miscellaneous No. 601/C of 1953 in S.C.A. No. 18 of 1959

The State of Punjab and Others

APPELLANT

Vs

Sampuran Singh and Others

RESPONDENT

Date of Decision : 08-03-1966

Acts Referred:

Limitation Act, 1908 — Section 5

Citation : (1966) 03 P&H CK 0005

Hon'ble Judges : P.C. Pandit, J

Bench : Single Bench

Advocate : L.D. Kaushal, Deputy A.G. with Mr. Manmohan Singh, for the Appellant; H.S. Gujral, for the Respondent

Final Decision : Allowed

Judgement

P.C. Pandit, J.—This order will dispose of three Civil Miscellaneous Applications Nos. 601-C to 603-C of 1963 filed in S. C. A. No. 18 of 1959. These are applications for bringing on record the legal representatives of deceased Diwan Singh respondent No. 7, Basawa Singh respondent No. 10 and Haria respondent No. 11. Respondent No. 10 died on 17th of February 1960, while respondent No. 11 on 11th of April 1959. So far as respondent No. 7 is concerned, in the application it is stated that he died on 19th of February 1963, while in the affidavit filed by Shri Chandan Singh, Consolidation Officer, Hoshiarpur, in support of this application, his date of death is mentioned as 1st of February 1961. All these applications were filed in this Court on 10th of April 1963. The appeal to the Supreme Court was admitted on 21st of May, 1962 and the record of the case has not been despatched to the Supreme Court as yet. No provision in the Supreme Court Rules 1960, has been brought to my notice which bars the grant of these applications. The two rules—Order XVI, rules 12 and 13 which were referred to in this connection are as under:—

12 (a) Where at any time between the admission of an appeal and the despatch of the record to this Court, the record becomes defective by reason of the death

or change of status, of a party to the appeal, or for any other reason, the Court appealed from may, notwithstanding the admission of the appeal, on an application in that behalf made by any person interested, grant a certificate showing who, in the opinion of the said Court, is the proper person to be substituted or entered on the record in place of, or in addition to the party on record, and the name of such person shall thereupon be deemed to be so substituted or entered on the record as aforesaid without express order of this Court.

(b) An application under sub-rule (a) above for a certificate to bring on record the legal representative of a deceased appellant or respondent shall, subject to the provisions of sections 4 and 5 of the Indian Limitation Act, 1908 (IX of 1908), be made within ninety days from the date of the death of the said appellant or respondent.

13. Where the record subsequent to its despatch to this Court becomes defective by reason of the death, or change of status, of a party to the appeal, or for any other reason, the Court appealed from shall, upon an application in that behalf made by any person interested, cause a certificate to be transmitted to the Registrar of this Court showing who, in the opinion of the Court appealed from, is the proper person to be substituted or entered on the record, in place of, or in addition to, the party on record.

These do not appear to apply to the facts of the instant case, because all the three respondents referred to above died before the admission of the appeal and the records have not been despatched to the Supreme Court as yet. These applications are consequently granted, but with no order as to costs.

Applications allowed.