

(2006) 01 AHC CK 0256
Allahabad High Court
Case No: Second Appeal No. 122 of 1981

Smt. Bundoo Devi

APPELLANT

Vs

Raj Bahadur and
Others

RESPONDENT

Date of Decision: Jan. 9, 2006

Citation: (2006) 4 AWC 3224

Hon'ble Judges: S.P. Mehrotra, J

Bench: Single Bench

Advocate: M.A. Qadeer, Mohd. Waris, B.D. Mandhyan and Deeba Siddiqui, for the
Appellant; Virendra Singh and Rishi Ram, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

S.P. Mehrotra, J.

Civil Misc. Application No. 2800 of 1994 (dated 29.7.1994), has been filed on behalf of the defendants-respondents Nos. 1 and 2, inter alia, praying that the second appeal be dismissed as having abated.

2. The application is accompanied by an affidavit of Raj Bahadur (defendant-respondent No. 1), sworn on 14.7.1994.

3. In the said affidavit, it is, inter alia, stated that Smt. Bundoo Devi (plaintiff-appellant) expired in the year 1989, but no substitution application for bringing on record her heirs and legal representatives has as yet been filed.

4. The aforesaid application was filed after serving a copy thereof in the Office of Sri M. A. Qadeer, learned Counsel for the plaintiff-appellant on 15.7.1994.

5. No reply has been filed to the aforesaid application, nor has any substitution application been filed on behalf of the heirs and legal representatives of the said Smt. Bundoo Devi (plaintiff-appellant).

6. As will be evident from a perusal of the order sheet of the case, adjournments have been taken for the last several dates on behalf of the learned Counsel for the plaintiff-appellant, so as to enable the learned Counsel for the plaintiff-appellant to obtain instructions.
7. Today, however, Sri Mohd. Waris, holding brief for Sri M. A. Qadeer, learned Counsel for the plaintiff-appellant, states that no instructions have been received by Sri M. A. Qadeer in the matter.
8. From the above narration of facts, it is evident that the said Smt. Bundoo Devi (plaintiff-appellant) expired in the year 1989.
9. The said fact was brought on record by the defendant-respondent Nos. 1 and 2 by filing the aforesaid application in the year 1994 after serving a copy thereof in the office of the learned Counsel for the plaintiff-appellant on 15.7.1994.
10. However, no substitution application has been filed so far on behalf of the heirs and legal representatives of the said Smt. Bundoo Devi (plaintiff-appellant).
11. In view of the above, it is evident that the second appeal at the instance of the said Smt. Bundoo Devi (plaintiff-appellant) stood abated on the expiry of 90 days from the date of death of the said Smt. Bundoo Devi (plaintiff-appellant) in the year 1989.
12. The said Smt. Bundoo Devi was the sole plaintiff-appellant in the second appeal.
13. Consequently, the second appeal stands dismissed as having abated.