

Ghafoor Ahmad Khan

Vs

Bashir Ahmad Khan (Dead) By Lrs.

Civil Appeal No. 3497 of 1982

(V. D. Tulzapurkar, Baharul Islam JJ)

08.11.1982

ORDER

1. After hearing counsel for the respondents we are not satisfied with the High Court's order directing that the appeal has abated and is, therefore, dismissed; that order cannot be sustained. This is not a case where on the death of the sole respondent his heirs are sought to be brought on record. During the lifetime of the sole respondent there was a transfer of the property (subject-matter of appeal) by way of a gift to his wife. In other words it is a case of devolution of interest and the case falls under Order 22, Rule 10 of C.P.C. and there will be no question of abatement. We therefore, direct that the transferee be brought on the record. The appeal is remitted to the High Court and the same be heard and disposed of in accordance with law.

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