

Ram Sumiran and Others

Vs

D. D. C. and Others

Civil Appeal No. 41 of 1980

(P. N. Bhagwati, R. B Misra JJ)

21.12.1984

ORDER

The only ground on which the High Court has dismissed the writ petition is that it has abated as a whole against respondents 4 and 5 since it abated against respondent 5 on account of legal representatives of respondent 5 not having been brought on record within a period of 90 days after the death of respondent 5 which occurred on November 21, 1976. It is true that no steps were taken by the appellants for bringing the legal representatives of the deceased respondent 5 on record for about 6 years even though according to respondent 4 the appellant knew about the death of respondent 5. But merely because no application was made by the appellants for bringing the legal representatives of the deceased respondent 5 on record we do not think that in the circumstances of the present case that would be a valid ground for refusing to grant the application of the appellants for setting aside the abatement and bringing the legal representatives of the deceased respondent 5 on record because the appellants are admittedly from the rural area and in a country like ours where there is so much poverty, ignorance and illiteracy, it would not be fair to presume that everyone knows that on death of a respondent, the legal representatives have to be brought on record within a certain time. The ends of justice require that the application for bringing the legal representatives of the deceased respondent 5 should have been granted. We accordingly allow the appeal, set aside the order of the High Court and direct that the abatement, if any, shall be set aside and the legal representatives of deceased respondent 5 shall be brought on record and the writ petition shall be remanded to the High Court for disposal according to law. We may make it clear that in making this order we must not be presumed to have expressed any opinion on the merits of the controversy raised in the writ petition. It will be for the High Court to decide the writ petition according to law. We would request the High Court to dispose of the writ petition at a very early date and as far as possible, before the end of February 1985. The ex parte order of stay made by us will stand vacated.

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