

Piara Singh and others

Vs

Natha Singh and others

Civil Appeal No. 79 of 1983

(S. Ranganathan, M. Fathima Beevi, N. D. Ojha JJ)

22.03.1991

ORDER

1. Having heard both counsel, we are of the opinion that this appeal has to be dismissed.
2. A preliminary objection has been raised that all the three appellants who originally filed the appeal have died and that the appeal has abated. We, however, find that in respect of one of the appellants the legal representatives were already on record and in respect of another appellant the legal representatives were duly brought on record. Only after the death of Piara Singh, one of the appellants, no immediate steps were taken to bring the legal representatives on record. Piara Singh died in June, 1990. A belated application has been filed before us, dated 7-3-91, seeking permission to bring on record his legal representatives. This application is opposed by the respondents pointing out that this application has been filed immediately after the respondents filed an application on 7-3-91 praying that the appeal should be dismissed on the ground of abatement. We have looked into the application for substitution and having regard to the fact that no counter-affidavit has yet been filed and as the parties are agriculturists and diligent steps were taken in respect of the earlier deaths, we think we should condone the delay and bring on record the legal representatives of Piara Singh as prayed for. I. A. No..... / 91 is accordingly allowed. In place of Piara Singh, Daljit Kaur, Angrez Singh, Ajit Singh and Dalbir Singh may be brought on record as prayed for.
3. However, we find that on the merits there is no ground to interfere with the decision of the High Court. The short question before the High Court was whether the will executed by Sadhu Singh in 1962 was genuine or not. Both the first appellate court and the High Court have concurrently held that the will was genuine. This is purely a finding of fact with which we cannot and do not interfere under Art. 136 of the Constitution. The appeal is, therefore, dismissed.
4. No order as to costs.

Appeal dismissed.

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