

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4662 OF 2009
(Arising out of S.L.P. (C) No.11117 of 2008)

Arjan Singh (D) By L.Rs. & Ors. ...Appellant(s)

Versus

Gurdian Singh (D) By L.Rs. ...Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties.

By the impugned order, the High Court allowed the second appeal, set aside the judgement and decree passed by the lower appellate court and restored that of the trial court.

Learned counsel appearing on behalf of the appellants submitted that during the pendency of the second appeal filed by Respondent No.1–Arjan Singh and Chandi, who were impleaded as Respondent Nos.1 and 2, died but steps were not taken for bringing on record their legal representatives. In our view, on this ground alone, the impugned order is fit to be set aside.

Accordingly, the appeal is allowed, impugned order rendered by the High Court is set aside and the second appeal is restored to its original file. It would be open to the appellant before the High Court to file applications under Order XXII Rule 4 read with Rule 9 of the Code of Civil Procedure, 1908 and Section 5 of the Limitation Act, 1963. In case such applications are filed, the same shall be first considered on their own merits and thereafter the appeal shall be disposed of.

[B.N. AGRAWAL]

.....J.

[G.S. SINGHVI]

.....J.

**New Delhi,
July 24, 2009.**