

Court No. - 37

Case :- SECOND APPEAL No. - 389 of 2001

Appellant :- Chandrabhushan Singh And Others

Respondent :- Bachan Singh

Counsel for Appellant :- R.K.S.Chauhan, ,Akhilesh Kumar Pandey,Sanjeev Mishra Gana

Counsel for Respondent :- Yogesh Agarwal,Sanjay Singh

Hon'ble Ajit Kumar,J.

Heard Sri Akhilesh Kumar Pandey, learned counsel for the appellants and Sri S.B. Tripathi, learned counsel for the respondent.

This second appeal was admitted by this Court on substantial question of law on 15.3.2001 and a stay order was granted to the effect that the parties will maintain *status quo* in respect of the property in dispute.

It transpires that the sole respondent died during pendency of the appeal and hence the heirs filed the abatement application and upon receiving the abatement application, the appellants moved a substitution application alongwith delay condonation application to substitute the heirs of the sole respondent.

After hearing the argument advanced by learned counsel for the parties, this Court vide detailed order dated 7.1.2019 rejected the delay condonation application as well as the substitution application and allowed the abatement application and abated the appeal. This order was challenged before the Supreme Court by the present appellants and the Supreme Court vide order dated 29.3.2019 allowed the substitution and set aside the abatement.

After the order was passed by the Supreme Court, this Court vide order dated 25.9.2019 allowed the substitution application stating that the abatement of the appeal was set aside by the Supreme Court. In compliance of the order dated 25.9.2019 the substitution has been carried out.

It is submitted by learned counsel for the appellant that after the appeal got abated by the order of this Court, the respondent has created third party right in respect of the suit property vide sale deed dated 27.3.2019 and since the subsequent purchaser started interfering in the suit property, the petitioner moved a stay application afresh.

Considering the fact that the appeal is an admitted one on a substantial question of law and there was already a *status quo* order operating between the parties and it is taking advantage of the order of the abatement that the heirs of the deceased respondent created third party right in respect of the suit property, it is hereby provided that the parties to this appeal shall maintain status quo in respect of the suit property and will not be creating any third party right any further in respect thereof.

Lower court record has been received.

Let the appeal be listed for final disposal on 22.3.2023.

Order Date :- 8.2.2023

Deepika