

Rajasthan High Court - Jodhpur

Smt. Basant Kaur & Anr vs Mithu Singh & Ors on 8 July, 2008

S.B. CIVIL SECOND APPEAL NO.DR(J)1906/05

Smt. Basant Kaur & Anr. Vs. Mithu Singh & Anr.

Date of order : 8th July, 2008  
PRESENT

HON'BLE DR. JUSTICE VINEET KOTHARI

Mr. J.R. Beniwal for the appellant.

Mr. G.R. Goyal for the respondents.

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1. Heard learned counsels.
2. Learned counsel for the respondents has pointed out that connected appeal i.e. Civil Misc. Appeal No.157/2005 directed against the same impugned judgment of appellate Court i.e. ADJ No.2, Sri Ganganagar dated 11.12.2004 has been allowed by this Court and the impugned order dt.11.12.2004 has been set aside and the appeal has been restored by this Court vide order dated 30.7.2007 in Civil Misc. Appeal No.157/2005 - Gurmeet Singh Vs. Basant Kaur & Ors. and therefore, this present second appeal filed by Basant Kuar against the same order dt.11.12.2004 has become infructuous.
3. Learned counsel for the appellant submits that he has filed an application under Order 22 Rule 3 in the present case and, therefore, the appellant may be given liberty to file similar application before the first appellate Court. It is needless to say that such application can always be filed where the appeal is now restored. This second appeal has become infructuous, as the impugned appellate order does not survive.
4. This second appeal is accordingly dismissed as having become infructuous.

item No.32 babulal/-