

**Phool Singh and ors. Vs. the State of M.P.**

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**SooperKanoon Citation :** [sooperkanoon.com/1047319](http://sooperkanoon.com/1047319)

**Court :** Madhya Pradesh

**Decided On :** Feb-25-2013

**Appellant :** Phool Singh and ors.

**Respondent :** The State of M.P.

**Advocate for Pet/Ap. :** Shri. Anurag Tiwari

**Judgement :**

Second Appeal No.1120/1998 (Phoolsingh and others ..v...State of MP & otheRs.25-02-2013 Shri Anurag Tiwari, learned counsel for the appellants.

It is submitted by the learned counsel for the appellants that out of the four original plaintiffs, Shobharam died during the pendency of the suit on 14-12-1987, while Shivcharan and Gayaprasad died on 5-6-1993 and 7-10-1990, respectively, during the pendency of the fiRs.appeal.

Their legal representatives were not brought on record.

It is stated that Phoolsingh had died on 8-10-1998 before the filing of the second appeal but after passing of the impugned judgment and decree.

In the circumstances, the appellants have filed I.A.No.7815/1998 to grant permission to substitute the names of the legal representatives in place of late Phoolsingh, Shivcharan and Shobharam.

From the narration of the dates and the facts stated it is clear that on the date of the judgment in the suit, Shobharam had already died and on the date of the decision of the fiRs.appeal, Shivcharan and Gayaprasad had also died but no steps have been taken to bring their legal representatives on record.

It is also clear that prior to filing of the second appeal Phoolsingh, the original plaintiff, had also died.

From a perusal of the record it is clear that the original plaintiff/appellants had claimed adveRs.possession against the respondents which was found not to have been established by both the Courts below.

In the circumstances, I am of the considered opinion that the appeal, on the death of Shivcharan, Gayaprasad and Shobharam, abates as a whole and in such circumstances, the appeal deserves to be and is accordingly dismissed.

(R.S.Jha) Judge mct

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