

**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**

S.B. Civil Second Appeal No. 134/2018

1. Kanhaya Lal S/o Vinya
2. Maddulal S/o Vinya
3. Mojiram S/o Vinya
4. Shrifool S/o Vinya  
All R/o. Vijaypur District & Tehsil SawaiMadhopur
5. Abdul Rahman S/o Mohammad, R/o Kushtala, Distt. And Tehsil Sawai Madhopur.

----Appellants

Versus

1. Rasid Mohammad S/o Bashir Mohammad B/c Muslim, R/o Lakheri, Garampura, Distt. Bundi (Dead) through Lrs  
1/1. Mumtaz W/o Rasid Mohammad  
1/2. Javed S/o Rasid Mohammad, aged 24 years  
1/3. Golu S/o Rasid Mohammad, aged 22 years  
1/4. Saloni D/o Rasid Mohammad, aged 20 years  
All R/o. Lakheri, Garampura, District Bundi
2. Tikke Khan S/o Basir Mohammad R/o Lakheri, Garampura, Distt. Bundi (Hazaf)
3. Babulal S/o Kajodmal, R/o Vijaypur, Distt. And Tehsil Sawai Madhopur.
8. State Of Rajasthan Through Tehsildar, Sawai Madhopur.

----Defendants/Respondents

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For Appellant(s) : Mr. R.P. Garg

For Respondent(s) :

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**HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL**

**Judgment / Order**

**31/10/2023**

This Court has, vide order dated 12.09.2023, passed following order:-

"As per the office report, no step has been taken on account of death of appellant no.1 despite taking time from this Court on 18.11.2022.

In view thereof, this civil second appeal stands abated qua him. The question as to whether it stands abated as a whole shall be considered at the time of admission/hearing of the matter."

Heard the learned counsel for the appellants on the issue as to whether the civil second appeal stands abated as a whole on account of death of the appellant No.1 in absence of his legal representatives having been brought on record.

The learned Additional Civil Judge (Senior Division), Sawai Madhopur has, vide judgment dated 23.07.2008, while decreeing the suit filed by the respondents/plaintiffs, held the sale deed dated 19.06.1992 executed by the defendant No.5 in favour of the defendants No.1 to 4 (the appellants No.1 to 4 herein) to be null and void. The judgment and decree dated 23.07.2008 has been affirmed by the learned Additional District Judge, Sawai Madhopur, while dismissing the appeal preferred by the appellants/defendants vide judgment and decree dated 13.12.2017.

Since, the decree is joint and inseveral against all the appellants/defendants, a position not even disputed by the learned counsel for the appellants, on account of failure on their part to bring on record the legal representative(s) of the deceased appellant No.1, this civil second appeal stands abated as a whole and is dismissed accordingly.

(MAHENDAR KUMAR GOYAL),J