

It other than the  
deceased can be said



**ASSIGN  
BUSTER**

It may however be stated that ordinarily the considerations which weigh with the court in deciding upon this question are whether the appeal between the appellant and the respondents, other than the deceased can be said to be properly constituted or can be said to have all the necessary parties for the decision to the controversy before the court. The test to determine this has been described in diverse forms. Courts will not proceed with an appeal: (a) When the success of the appeal may lead to the court's coming to a decision which will be in conflict with the decision between the appellant and the deceased respondent and therefore which would lead to the court's passing a decree which will be contradictory to the decree which had become final with respect to the same subject-matter between the appellant and the deceased respondent; (b) When the appellant could not have brought the action for the necessary reliefs against those respondents alone who are still before the court; and (c) when the decree against the surviving respondents if the appeal succeeds, will be ineffective, that is to say, it could not be successfully executed. (State of Punjab v. Nathu Ram, A.

I. R. 1962 Supreme Court, 89).