

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR No.6448 of 2013

Date of decision: May 11, 2015.

Ravinder Kumar

... **Petitioner**

v.

M/s Sham Singh Thakur Singh

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON**

Present: Shri Vikas Mohan Gupta, Advocate, for the petitioner.

**Dr. Bharat Bhushan Parsoon, J.** (Oral):

Vide order dated 21.8.2013, the lower court interpreting the order of return of the plaint, has ordered the case to be proceeded from the stage at which it had been returned.

2. Counsel for the petitioner has claimed that the case is not to start from the stage it had been returned, but has urged that it should be completely a fresh start.

3. During the course of arguments, Counsel for the petitioner has urged that the order of striking off defence by the lower court cannot continue when the plaint has been sent to some other court. The lower court had taken cognizance of the difficulty likely to be faced by the litigant. Observations of the lower court, being apt and relevant, are reproduced as under:-

*“Reference needs to be made to the case of Neeta Chadha & Others vs. Phullan Rani & others cited as 2011(4) PLR 424 wherein it was held by the Hon'ble Punjab and Haryana High Court that wherein plaint is returned under Order VII Rule 10-A and the parties have completed their*

*pleadings and led their evidence, there to permit the parties to lead fresh evidence will expose the parties to avoidable expenses and delay in the proceedings. Therefore, the interest of the justice would be met if the pleadings, the evidence and the documents already on record are remitted to the court of competent jurisdiction to decide the suit from the stage immediately prior to the final judgment and decree.*

*Therefore, in view of the above authority of the ld Punjab and Haryana High Court, I deem it just to take up the present suit from the stage where it was returned to the plaintiff for want of proper jurisdiction. The perusal of the record shows that the present case was fixed for final arguments. Therefore, for final arguments the parties are directed to appear on 6.9.2013.”*

4. Counsel for the petitioner has sought support from Amar Chand Inani v. Union of India, AIR 1973 SC 313. The applicability of Section 4 of the Limitation Act, 1963 is not involved in this case when concedingly the defendant had done acts of commission and omission resulting in striking off their defence. Mere transfer of the case from one place to another does not call for recall of the orders already passed by the court, where the suit was earlier pending. With due deference, facts of the case in the cited authority are entirely different from the facts involved in this case.

5. No merit.  
Dismissed.

May 11, 2015.  
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**[Dr. Bharat Bhushan Parsoon]**  
**Judge**