

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA No.1291 of 2011
Date of Decision: 10.02.2015

Usha Rani

.....Appellant

Vs.

Jalandhar Improvement Trust, Jalandhar and anr.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN.

Present:- Mr.D.K.Kaushal, Advocate for the appellant.

Mr.H.S.Gill, Advocate for the respondent.

MAHAVIR S. CHAUHAN, J. (ORAL)

Heard.

Plaintiff/appellant approached learned Civil Judge (Senior Division), Jalandhar ('Trial Court'-for short) for grant of a decree for permanent injunction to restrain the defendants/respondents from taking forcible possession of or interfering in appellant's peaceful possession over the suit property or demolishing any construction raised thereon. The suit, after contest, was dismissed by the learned trial Court vide judgment/decreed dated 18.10.2007 which was assailed by the appellant by way of an appeal (Civil Appeal No.187 of 2007). The appeal has also been dismissed by the learned Additional District Judge, Jalandhar ('first appellate Court'-for short) vide judgment dated 21.07.2010.

It is contended by learned counsel for the appellant and is so borne out from the record of the learned First Appellate Court that an application was made by the appellant on 16.09.2008 under Rule 27 of Order XLI of Code of Civil Procedure, 1908, for permission to

lead additional evidence but this application has not been decided by the learned First Appellate Court nor is there any reference to this application in the impugned judgment dated 21.07.2010.

In view of the above, without going into merits of the case, the appeal is allowed, the impugned judgment dated 21.07.2010 is set aside and the matter is remitted back to the learned Additional District Judge, Jalandhar, with a direction to dispose of the application brought by the appellant under Rule 27 Order XLI of the Code of Civil Procedure, 1908 by passing an appropriate order, as per procedure known to law before or alongwith the appeal. The matter has already been delayed unreasonably. Therefore, it is expected that learned first appellate Court shall dispose of the application for additional evidence and the appeal as expeditiously as possible but not later than three months from the date of parties appearing before it.

Parties through their respective counsel are directed that they shall appear before learned Additional District Judge, Jalandhar at 10:00 a.m. on 03.03.2015.

(MAHAVIR S. CHAUHAN)
JUDGE

10.02.2015
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