

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

R.S.A.No.408 of 2011 (O&M)

Date of Decision: February 16, 2015

Jai Narain

...Appellant

Versus

Lakhi Ram (since deceased) through L.Rs. & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**Present: Mr.Sanjay Vij, Advocate,
for the appellant.**

**Mr.N.D.Achint, Advocate,
for respondent Nos.1 to 3.**

AMIT RAWAL, J. (Oral)

After addressing arguments for some time, both the learned counsel are ad-idem that the impugned judgment and decree of the Lower Appellate Court is liable to be set-aside as the Lower Appellate Court has not determined the points of determination, much less, discharged the obligation as envisaged under Section 96 CPC.

I have gone through the judgment and decree of the Lower Appellate Court and am of the view that the Lower Appellate Court has not discussed the evidence in detail, except holding that the suit of the appellant-plaintiff was not maintainable. The appellant-plaintiff has not claimed the declaration and only sought permanent and mandatory

injunction, so it was incumbent upon the Lower Appellate Court to discuss the entire evidence brought on record by the respective parties.

Thus, in view of the powers exercised under Order 41 Rule 23 CPC, I deem it fit to remit the case back to the Lower Appellate Court to decide the appeal filed by the appellant-plaintiff afresh by referring to the oral and documentary evidence brought on record. The impugned judgment and decree of the Lower Appellate Court is hereby set-aside and the matter is remitted back to the Lower Appellate Court to decide the same afresh on the basis of the evidence already led by the parties.

The parties, through their counsel, are directed to appear before the District Judge, Gurgaon on 10.3.2015, who, will either decide the appeal himself or assign the same to any of his subordinate officer.

It is expected that the Lower Appellate Court will decide the appeal within a period of six months.

The records of the trial Court and Lower Appellate Court be sent back.

February 16, 2015
ramesh

(AMIT RAWAL)
JUDGE