

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 721 of 2011 (O/M)
Date of decision : 25.8.2015

Mohinder Ram

..... Appellant

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Vikas Bahl, Senior Advocate, with,
Mr. Arjun Kundra, Advocate, for the appellant.

Mr. Shivoy Dhir, Advocate, for respondents No. 2 to 4.

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

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KULDIP SINGH, J. (ORAL)

Impugned in the present regular second appeal is judgment and decree dated 28.4.2009, passed by the learned Additional Civil Judge (Senior Division), Nawanshahr, vide which after granting more than four effective opportunities, the evidence of the plaintiff was closed by orders for non appearance of the witness of the plaintiff and for non payment of costs of Rs. 300/- and the suit was dismissed under Order 17 Rule 3 of Code of Civil Procedure, 1908 ('CPC'). Also impugned in the present regular second appeal is

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the judgment and decree dated 30.9.2010, passed by the learned Additional District Judge, SBS Nagar, whereby the appeal against the said judgment and decree was dismissed and the application for permission to lead evidence was also dismissed.

I have heard the learned counsel for the parties and have also carefully gone through the file.

It comes out from the judgment of the lower Court that the plaintiff was granted as many as four effective opportunities including last two opportunities to lead his evidence. The costs of Rs. 300/- was also imposed, which were demanded, but not paid.

Leaving aside the legal position, the learned senior counsel for the appellant states that the plaintiff had sought the declaration regarding the disputed property and that it will have serious consequences for him. Therefore, he should be given two more effective opportunities to lead evidence.

The contention has been opposed by the learned counsel for respondents No. 2 to 4 on the ground that even despite four effective opportunities, the evidence was not led and that the costs of Rs. 300/- was also not paid.

After going through the judgments of both the Courts below, I am of the view that the vital interests of the plaintiff are involved in the present suit. Admittedly, no evidence was led by the plaintiff, despite four effective opportunities. However, the interest of

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justice requires that the plaintiff should be granted another opportunity to lead evidence and get the verdict on merit.

As such, the impugned judgment and decree dated 28.4.2009, passed by the learned Additional Civil Judge (Senior Division), Nawanshahr as well as the judgment and decree dated 30.9.2010, passed by the learned Additional District Judge, SBS Nagar, are set aside and the case is remanded back to the Court of Additional Civil Judge (Senior Division), Nawanshahr, with the directions that the plaintiff shall be granted two more effective opportunities to conclude the evidence. For this purpose, if the plaintiff required, the summons be given dasti to him. No further opportunity will be given. Both the parties are directed to put in appearance before the learned Additional Civil Judge (Senior Division), Nawanshahr, on 29.9.2015. This order is subject to payment of Rs. 300/- as costs, already imposed by the lower Court and another sum of Rs. 10,000/- as costs, now imposed by this Court, to be deposited in the District Legal Aid Fund, Nawanshahr.

The appeal is accordingly allowed.

(KULDIP SINGH)
JUDGE

25.8.2015
sjks