

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

**Regular Second Appeal No. 937 of 2013 (O&M)**

**DATE OF DECISION : August 24, 2015**

**Smt. Vedwati & ors.**

**..... APPELLANTS**

**VERSUS**

**Smt. Sarshati & ors.**

**.... RESPONDENT(S)**

**CORAM : HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. Rajesh Garg, Advocate, for the appellants.  
Mr. Sanjiv Gupta, Advocate, for respondent No.1.

...

**ARUN PALLI, J. (Oral)**

Suit filed by the plaintiffs was dismissed by the trial Court vide judgment and decree dated 04.12.2010. Appeal preferred against the said decree failed and was dismissed vide judgment dated 18.08.2011. This is how, plaintiff No.1; namely, Vedwati daughter of late Chameli, and legal representatives of plaintiffs No.2 and 3 are before this Court, in this Regular Second Appeal.

Learned counsel for the parties are ad-idem that Shri

Om Jiwan Sharma, Advocate, counsel for the plaintiffs, had since

passed away, none represented the plaintiffs on the date fixed i.e. 18.08.2011 before the Ist Appellate Court. Shri A.K. Singh, Advocate, who happened to be junior to Shri Om Jiwan Sharma, pleaded no instructions. Further, even an application was moved by respondent No.1 to apprise the Court that plaintiffs No.2 and 3 had also passed away and proforma defendants No.2 to 4 were not yet served. That being so, rather than issuing notice for an actual date to the plaintiffs, learned Ist Appellate Court proceeded to decide the appeal and the same was dismissed on the same day itself.

During the course of hearing, a consensus emerged between the counsel for the parties that judgment rendered by the Ist Appellate Court dated 18.08.2011, as also the order dated 18.08.2011 (Annexure A-4), be set aside and the matter be remitted to the Ist Appellate Court for decision afresh, in accordance with law. Learned counsel for the parties submit that the suit was instituted as back as on 04.06.2004 and more than 11 years have gone by and, thus, learned Ist Appellate Court be directed to decide the appeal within a specified time.

In the wake of the position as set out above, the judgment dated 18.08.2011, as also the order dated 18.08.2011 (Annexure A-4), are set aside, the matter is remitted to the learned Ist Appellate Court for decision of the appeal afresh, in accordance with law.

Ist Appellate Court is requested to decide the appeal within a reasonable time, preferably within six months of the receipt of certified copy of this order.

Parties, through their counsel, are directed to appear before the Ist Appellate Court on 21.09.2015.

The appeal is disposed of in above terms.

However, it is made clear that this order shall not constitute any expression of opinion on merits of the case of either party.

**AUGUST 24, 2015**  
**Kang**

**( ARUN PALLI )**  
**JUDGE**