

SAO-30-2015 (O&M)

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

**SAO-30-2015 (O&M).
Decided on: March 24, 2015.**

Karamjit Kaur and others

..... Petitioner(s)

Versus

Basant Kaur

..... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Sherry K. Singla, Advocate,
for the petitioners.**

M.M.S. BEDI, J (ORAL)

This is defendant's appeal against the order dated 27.2.2015, passed by the Additional District Judge, Sirsa, who has set aside the order and decree dated 20.8.2011, passed by the Court of Additional Civil Judge (Sr. Divn.), Dabwali, dismissing the suit of the plaintiff-respondent under Order 17 Rule 3 CPC. Vide impugned order, the suit has been remanded to the trial Court with a direction to decide the same afresh after giving one effective opportunity to the plaintiff to produce her evidence and thereafter by giving opportunity to the defendants to produce their evidence in accordance with law. The parties have been directed to appear before the trial Court on 25.3.2015.

Counsel for the appellants-defendants has vehemently urged that the dispute is pertaining to inheritance of

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property of Hardeep Singh who was husband of appellant No.1 and son of plaintiff-respondent No.1. He has vehemently urged that issues were framed by the trial Court on 23.3.2011. The case was fixed for evidence of the plaintiff for 1.5.2011 but 1.5.2011 being holiday, file was taken up on 2.5.2011 and adjourned to 4.6.2011. No witness of the plaintiff-respondent was present on said date as such, the case was adjourned to 28.7.2014 and then to 20.8.2011 for said purpose but the plaintiff-respondent having failed to produce any evidence, the trial Court had rightly proceeded against the plaintiff-respondent under Order 17 Rule 3 CPC and had rightly dismissed the suit for declaration and injunction.

I have heard the learned counsel for the appellants-defendants and gone through the order passed by the lower Appellate Court carefully.

The dispute is amongst the mother-in-law and daughter-in-law pertaining to the right, title and interest in the property in dispute originally belonging to Hardeep Singh who has expired. No doubt the plaintiff-respondent had been negligent and casual in production of evidence but at the same time the rights of the parties are to be finally determined by adjudication of their rival claims. The lower Appellate Court, in the interest of natural justice and fair trial, has granted one effective opportunity to the plaintiff-respondent to produce her evidence and seek adjudication of the matter on merits. No fault can be found in the order dated 27.2.2015

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on merits except that the appellants-defendants have not been granted any costs for the harassment and delay caused in the adjudication of the matter on account of conduct of the plaintiff-respondent.

Since the controversy is unfortunately between the mother-in-law and daughter-in-law, the same is required to be resolved following the provisions of Order 32 A Rule 3 CPC, at any stage by the Courts. Expecting that the parties will get a reasonable platform for amicably resolving the dispute, I do not find any ground to interfere in the order passed by the Courts below.

The petition is dismissed.

March 24, 2015.
rka

(M.M.S. BEDI)
JUDGE