

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

(113)

**SAO No.48 of 2015 (O&M)
Decided on: August 05, 2015.**

Chamkaur Singh

.... Appellant

Versus

Lakhbir Singh and others

..... Respondents

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

Present: Mr. Gurcharan Dass, Advocate,
for the appellant.

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

Suit of the plaintiff-appellant for declaration that he was co-owner in actual physical possession of the land in dispute to the extent of his share as mentioned in the heading of the plaint, was dismissed by the trial Court. The plaintiff-appellant had also sought declaration to the effect that the Will dated 27.05.2002 alleged to have been executed by deceased Zora Singh in favour of the defendants, was null and void. After the suit of the plaintiff-appellant was dismissed, he had filed an appeal before the lower Appellate Court. The lower Appellate Court has remanded the case back to the trial Court in order to enable the plaintiff to lead fresh evidence if required by giving two effective opportunities to the plaintiff to lead fresh evidence and at the same time also providing two effective opportunities to the defendants to lead fresh evidence in case the same is required. Since the suit of the plaintiff had been dismissed by the trial Court and an order beneficial to the plaintiff has been passed, there does not appear to be any

occasion for the plaintiff to challenge the order passed by the lower Appellate Court.

Learned counsel for the appellant submits that the plaintiff has got an apprehension that the defendants-respondents will also be permitted to lead evidence pertaining to the issues involved in affirmative and in rebuttal.

I have considered the said contention and I am of the opinion that the apprehension of the counsel for the plaintiff-appellant is misconceived. The appellant-plaintiff who have been permitted to lead evidence to substantiate his pleas in the plaint, it will be open to the appellant-plaintiff to object to the production of evidence by the defendants in case it is in contravention to the rules of evidence as defendants seem to have not challenged the impugned order of remand till date.

Dismissed.

(M.M.S. BEDI)
JUDGE

August 05, 2015
harsha