

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

RSA No.1642 of 2007(O&M)

Date of decision:29.2.2016

Kamla and others

....Petitioners

VERSUS

Sanjay Kumar and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Mani Ram Verma, Advocate for the petitioners.

Mr. P.S. Bajwa, Advocate for respondent No.1.

REKHA MITTAL, J.(Oral)

The present appeal lays challenge to the judgment and decree dated 06.11.2006 passed by the Additional District Judge, Rohtak whereby the appeal preferred by Sanjay Kumar-respondent No.1 has been allowed and the judgment and decree passed by the trial Court dismissing suit of respondent No.1 has been reversed.

Counsel for the parties are *ad idem* that as the Court in appeal has not adverted to the findings of the trial Court on issues No.3 and 4, decided by the trial Court in favour of the appellants holding that the suit is bad for non-joinder of necessary parties and the respondent/plaintiff is estopped by his act and conduct from filing the present suit, the judgment and decree passed by the Court in appeal may be set aside and the matter may be remitted to the first Appellate Court for decision of the appeal afresh.

In view of the above, the present appeal is allowed. The judgment and decree passed by the first Appellate Court is set aside and the

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matter is remitted to the first Appellate Court i.e. Additional District Judge, Rohtak, for disposal of the appeal afresh.

The parties through their counsel are directed to appear before the first Appellate Court on 06.04.2016.

The records be sent back to the Court concerned.

FEBRUARY 29, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE