

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

RSA No.2921 of 2010 (O&M)

Date of decision : 08.04.2016

Punjab Wakf Board now Haryana Wakf Board

...Appellant

Versus

Pushpa Devi

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Deepak Sabharwal, Advocate for the appellant.

Mr. Vinod S. Bhardwaj, Advocate for the respondent.

AMIT RAWAL, J. (Oral)

Learned counsel for the appellant submits that before the lower Appellate Court, application under Order 41 Rule 27 for placing on record the judgment and decree dated 02.12.2008 was filed but the same, which was duly replied, has not been decided either in the impugned judgment or by way of separate order. In support of his contention, he has relied upon judgment of Hon'ble Supreme Court in *Malayalam Plantation Ltd. Vs. State of Kerala and another* 2011 AIR SC 559. The aforementioned factum is not disputed by Mr. Vinod S. Bhardwaj, Advocate for the respondent.

Keeping in view the aforementioned facts, I am of the view that

following substantial question of law arises for determination:-

1. Whether in the absence of decision of the application under Order 41 Rule 27 of the Code of Civil Procedure, matter is required to be remitted back or not.

In view of ratio decidendi culled out by Hon'ble Supreme Court in judgment cited (Supra), it is settled law that once the application under Order 41 Rule 27 (Annexure A-1) in case filed and not adjudicated either by way of common order or separately, matter is required to be remanded back to the lower appellate Court.

Accordingly, impugned judgment and decree of lower Appellate Court is set aside. Matter is remitted back with the direction to the lower Appellate Court to decide the application and appeal in accordance with law and in most pragmatical manner.

Question of law as noticed above are answered in favour of appellant and against the respondent.

Parties through their counsel are directed to appear before the lower Appellate Court on 24.05.2016.

RSA is disposed of in the aforementioned terms.

08.04.2016

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**(AMIT RAWAL)
JUDGE**