

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

RSA No.3967 of 2010

Date of Decision: September 2, 2016

Kailash Kumar and another

..... Appellants

Vs.

Anil Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

1. To be referred to the Reporters or not? yes
2. Whether the judgment should be reported in the Digest?

Present: Mr. S.C.Pathela, Advocate,
for the appellants.

Mr. K.S.Cheema, Advocate,
for respondents No.1 and 3 to 5.

Presence of respondent No.2 already dispensed with.

Respondent No.6 *ex parte*.

AMOL RATTAN SINGH, J.

This case has a rather chequered history, as would be seen hereinafter.

The predecessor-in-interest (father) of the present appellants, one Shri Baghirath Parshad, filed a suit for possession by way of partition, of land measuring 8 kanals -13 marlas, such land being a 1/6th share out of a larger chunk of land measuring 52 kanals. The plaintiff claimed that he was the owner to the extent of the aforesaid 1/6th share, as per the revenue record and

that defendant No.2 (respondent No.2 herein) Kundan Lal, had wrongly transferred ½ a share of 26 kanals out of the total holding of 52 kanals, vide a registered sale deed dated 13.10.1992 in favour of defendants no.3 to 5 (respondents No.3 to 5 herein), and that the sale was not binding upon the rights of the plaintiff.

2. Upon notice issued to them, the defendants appeared and filed separate written statements, with defendant No.1 pleading that the plaintiff was not in possession of the suit property and as such, the suit was not maintainable and the suit property being assessed to land revenue, the jurisdiction of the Civil Court, for partition, was barred.

Other preliminary objections with regard to improper valuation, delay, etc. were also taken.

It was further contended that the suit was also barred on the principle of *res judicata* as the plaintiff had earlier filed Civil Suit No.137/RT 318 of 1981, which was dismissed on 27.10.1983.

Other than the above, it was pleaded that in the alternative, the first defendant had become owner of the suit property by way of adverse possession as well.

3. Defendants No.3 to 5, in their written statement stated that they were bonafide purchasers of 26 kanals of land, without any notice of any litigation pending between the parties.

Upon a replication being filed by the plaintiff, the learned Additional Civil Judge framed the following issues:-

- "1. Whether the plaintiff is a co-sharer in the suit property? If so, to what extent? OPP
2. Whether the suit is not maintainable in this form?

OPD

3. Whether the suit is bad for non-joinder and mis-joinder of parties? OP
4. Whether the suit not properly valued for the purposes of court fee and jurisdiction? OPD
5. Whether the plaintiff is estopped to file this suit by his act and conduct? OPD
6. Whether the suit is beyond limitation? OPD
7. Whether the suit is barred by res-judicata? OPD
8. Whether the defendant have become owners by adverse possession? OPD
9. Relief."

5. The plaintiff examined himself on 09.12.1994 as PW1 but upon his cross-examination being deferred, he never appeared thereafter and also did not examine any other witness, despite several opportunities given, as per the judgment of the learned Civil Judge.

Consequently, evidence was closed by a separate order and thereafter that Court proceeded to adjudicate upon the issues framed.

However, it was held that the examination-in-chief of the plaintiff not being admissible, he not having faced cross-examination, eventually there was no evidence led, whatsoever, in support of the suit of the plaintiff. Hence, the first issue of whether the plaintiff was a co-sharer in the suit property or not, was decided against him and issues No.2 to 8 were held to have become infructuous in view of the finding on issue No.1.

The suit was, therefore, dismissed vide a judgment and decree dated 09.05.1997.

6. The legal representatives of the original plaintiff (i.e. the present appellants and proforma respondent No.6) having filed an appeal before the first Appellate Court, the said appeal was allowed and the matter remanded back to the lower Court under Order 41 Rule 23 CPC, after setting aside its judgment and decree, with a direction to that Court to afford one more opportunity to the plaintiff to conclude his evidence and to thereafter decide the suit afresh.

7. That order was challenged by the respondents-defendants before this Court by way of S.A.O. No.5 of 2001, which was allowed by a co-ordinate Bench of this Court, by passing an order on 29.11.2006, and the matter was remanded back to the first Appellate Court for decision by it, on merits. The operative part of the said order reads as under:-

“Vide order dated 9.5.1997, the learned trial Court was pleased to close the evidence of the plaintiff by passing the following order:-

“No PW is present. In this case the plaintiff has already availed numerous opportunities to lead his evidence but has not examined even a single witness till today. Issues in this case was framed as back as on 10.06.1995. No reason has been given today as to why the evidence is not forthcoming. Even the plaintiff has not come present. The costs imposed for today's adjournment have also not been paid by the learned counsel for the plaintiff demanded by the defendant. As such, I

do not find any justification for further adjournment of the case for the evidence of the plaintiff. As such, evidence of the plaintiff is closed by order. Arguments Heard. Vide my separate detailed judgment of even date the suit of the plaintiff has been dismissed with costs. Decree sheet be prepared. File be consigned to the record room."

In view of the order referred to above, the suit of the plaintiff was dismissed. The learned lower Appellate Court came to the positive conclusion that the trial Court was justified in closing the evidence of the plaintiff-respondent by order. However, the learned lower Appellate Court came to the conclusion that it was not open to the trial court to straightway resort to hearing of the arguments. The view of the learned Appellate Court was that the petitioners herein should have been allowed to lead evidence on the issues, onus of which was on the defendant-petitioner. In view of this, the learned Appellate Court came to the conclusion that the learned trial Court could not dispose of the suit by holding that Issues No.2 to 8 had become infructuous and in view of this finding, ordered the remand of the case, as referred to above. However, while passing the remand order, it directed that opportunity be given to the respondent-plaintiff to lead evidence. This finding, on the face of it, cannot be sustained in view of the positive finding recorded by the learned lower Appellate Court that the order dated 9.5.1997 reproduced above was justified. Even otherwise, there could be no challenge to the said order, as admittedly, the plaintiff had failed to pay the costs imposed while giving adjournment for leading evidence.

The Hon'ble Supreme Court in the case of **Mahant Narayangiri Guru, Mahant Someshwargiri** versus **The State of Maharashtra and another,** AIR 1977 Supreme Court 628 has been pleased to lay down as under:-

"The plaintiff's suit was a suit for declaration of his title to the property in dispute. In order to succeed in the suit, the plaintiff sought to establish not only that the property in dispute was the private property of the deceased mahant but also that he was the duly appointed chela of the deceased mahant.

Held that once a finding was arrived at that the property in dispute was endowment property and was not the private property of the deceased mahant and that finding was no longer open to challenge, the question of going into the other aspect as to whether the plaintiff-appellant was or was not the duly appointed chela of the deceased mahant would not survive for decision."

In view of the authoritative pronouncement of the Hon'ble Supreme Court, it was not correct on the part of the lower Appellate Court to remand the case merely for recording a finding on Issues No.2 to 8, once Issue No.1 was to be decided against the plaintiff-respondent in view of the order dated 9.5.1997. Even if Issues No.2 to 8 were to be decided against the petitioner, still the suit was to be dismissed by recording a finding on Issue No.1 against the plaintiff-respondent.

In light of what has been stated above, the order passed by the learned Appellate Court cannot be sustained. The appeal is allowed and the impugned order is set aside. The case is remanded back to the learned lower Appellate Court for decision on merits."

8. Thereafter, upon remand, the learned lower Appellate Court, on the same ground as taken by the learned Civil Judge, found that no evidence having been led, the first issue with regard to whether the plaintiff was a co-sharer in the suit property or not, had to be decided against him.

On issues No.2 to 8, it was held that though the onus was on defendants No.2 to 8 to prove the said issues, they were not called upon to lead evidence to prove their stand and as such, no finding was recorded on the said issues. The lower Appellate Court further held that in the absence of any cross appeal or cross-objections having been filed by the respondents/defendants against the findings of the lower Court on issues No.2 to 8, the finding in that judgment of the lower Court had to be upheld in that regard too (i.e. disposing of those issues as having been rendered infructuous).

Consequently, the appeal was dismissed, as also was an application filed under Order 41 Rule 27 CPC, by the plaintiff, seeking to lead additional evidence.

This led to the filing of the present second appeal by the plaintiff (through his legal representatives).

9. Upon notice having been issued by this Court, eventually respondents No.1 and 3 to 5 appeared through counsel, with service upon respondent No.2 dispensed with, on a statement made by counsel for the appellants on 22.11.2012. Thereafter, respondent No.6 (shown as a proforma respondent-co-plaintiff) was proceeded against *ex parte*. (Respondent No.6 is actually seen

to be another son of the plaintiff, who though was shown to be an appellant, as a legal representative of plaintiff Baghirath Parshad, before the lower Appellate Court, is not shown to be so in the present appeal and has instead been impleaded as a proforma respondent).

It would also be appropriate to notice here that respondent-defendant No.2, Kundan Lal, is the person who is stated to have sold 26 kanals of land, allegedly including the share of the plaintiff, to respondents-defendants No.3 to 5. He (respondent-defendant No.2, Kundan Lal), is also seen to be the brother of respondent-defendant No.1 Ved Parkash, as per the parentage and address of both these respondents, given in the memo of parties.

10. Before this Court, Mr. S.C.Pathela, learned counsel for the appellants, submitted that as a matter of fact, the judgment of the learned Additional Civil Judge is actually perverse inasmuch as, the judgment is shown to have been passed in the presence of Shri Ram Singh, Advocate, counsel for the plaintiff, whereas on the date of the judgment, i.e. 09.05.1997, the said Shri Ram Singh was still convalescing after suffering a massive heart attack and had not appeared in Court from 05.04.1997 to 20.05.1997. In fact, his affidavit dated 13.11.2000 was sought to be led by way of additional evidence before the learned lower Appellate Court, even after his death, alongwith other evidence, but the application under Order 41 Rule 27 CPC was wholly erroneously dismissed by the lower Appellate Court, on the same date as the appeal itself

was dismissed, i.e. on 01.06.2010.

He submitted that by the aforesaid application, the following additional evidence was sought to be led:-

1. Original affidavit dated 13.11.2000 of Giani Ram Singh Advocate Muktsar (deceased).
2. Sh. Amandeep Singh Advocate, (Oath Commissioner) Muktsar to prove affidavit dated 13.11.2000.
3. To allow the applicant to tender in evidence Jamabandi for the year 1985-86 already on the trial court file.

Learned counsel further drew attention to the affidavit of the late Giani Ram Singh, Advocate, dated 13.11.2000, (sought to be led by additional evidence), which reads as under:-

"I Giani Ram Singh Advocate Muktsar do hereby solemnly affirm and declare as under:

1. That on 4/4/1997 I suffered a severe heart attach while arguing a case in the courts.
2. That thereafter on 13/4/1997 I was taken to Escort Heart Institute & Research Centre New Delhi and the Cardiologist fixed my Bye-Pass surgery date on 22/5/97 was required to present my self on 20/5/97 for preliminary tests etc.
3. That I did not attend any court from 5/4/97 to 20/5/97 because I was advised complete bed rest

Deponent
Sd/-
Giani Ram Singh Advocate

I further declare and affirm that the above statement of mine is true and correct to my knowledge and nothing has been concealed therein,

Date:13/11/2000
Place:-Muktsar

Deponent
Sd/-
Giani Ram Singh Advocate"

11. Thus, learned counsel submitted that the non-leading of evidence before the learned Additional Civil Judge, including non cross-examination of the plaintiff, was a result of his Advocate having suffered a heart attack, due to which he could not appear in Court and thus, his presence recorded on 09.05.1997 in the impugned judgment of the learned Additional Civil Judge, was wholly uncalled for, the Advocate having remained confined to bed right uptill 20.05.1997.

12. Mr. Pathela further submitted that a perusal of the order sheets of the learned Civil Judge showed that it was not only the fault of the plaintiff that no evidence was led but in fact, the matter was earlier adjourned due to a compromise being spoken of and thereafter it was adjourned on common consent of parties and on at least three occasions on request of counsel for the defendant, on one of which even a PW was present for examination but could not be examined due to absence of the opposite counsel.

Hence, he submitted that the learned Additional Civil Judge had wholly erred in closing the evidence simply because on two successive dates after a PW had actually come present, no PW was present and at least one more opportunity should have been granted to examine the PWs, including for cross-examination of the plaintiff himself.

He submitted that as a matter of fact, the order of the learned lower Appellate Court, dated 21.12.2000, remanding the matter back to the Civil Judge, granting one more opportunity to the plaintiff to lead his evidence, was a correct order but since that order was set aside by this Court and this Courts' order dated 29.11.2006, in S.A.O. No.5 of 2001, having become final, he could not obviously say anything more on that issue.

13. Mr. Pathela further submitted that the *Jamabandi* (Record of Rights) of 1985-86 was a vital piece of evidence which in any case should have been allowed to have been led by way of additional evidence by the learned lower Appellate Court, upon remand of the appeal back to it by this Court.

He submitted that in such circumstances especially, the learned lower Appellate Court should have, in fact, allowed the application for additional evidence and thereafter gone on to decide the appeal on merits.

14. Mr. K.S.Cheema, learned counsel for respondents No.1 and 3 to 5, submitted that the merits of the case apart, i.e. that respondents No.1 to 5 are, in any case, bonafide purchasers of the suit property, prior to institution of the suit itself, the fact remains that from 09.12.1994, till the date that the suit was finally dismissed on 09.05.1997, i.e. for two and half years, no evidence was led by the plaintiff, including his own cross-examination, after his examination-in-chief had been conducted on 09.12.1994.

Hence, even if the illness of counsel for the plaintiff from 04.04.1997 is accepted at face value, with no medical

evidence led in that regard, it cannot be said that sufficient opportunities were not granted to the plaintiff to lead evidence in his favour. Hence, he submitted that the order of this Court passed in S.A.O. No.5 of 2001 was wholly correct and in any case, has become final. Thus, the appeal having been remanded for decision on merits by this Court to the lower Appellate Court, that Court committed no error, in either dismissing the application for leading additional evidence at such a belated stage, or in dismissing the appeal itself on the ground that no evidence was led on behalf of the plaintiff.

Consequently, he submitted that this appeal also deserves to be dismissed.

15. Having considered the aforesaid arguments and having perused the entire record, one thing is certain, that whether or not one final opportunity should have been granted by the learned Civil Judge to the plaintiff to lead his evidence, that issue cannot now gone into by this Court, as a co-ordinate Bench has already adjudicated upon it vide its order dated 29.11.2006, passed in S.A.O. No.5 of 2001. The only issue that can be considered by this Court now, is as to whether the application under Order 41 Rule 27 CPC, filed by the appellant-plaintiff, should have been allowed by the learned lower Appellate Court and thereafter the matter decided on merits.

16. Having considered the arguments of learned counsel on both sides, it must first be noticed that a perusal of the record of the learned Civil Judge shows that the following order was passed

on 09.12.1994:-

“Chief examination of plaintiff recorded. Cross deferred as record is not available. To come up on 21.2.95 for plaintiff evidence at own responsibility.”

On 21.02.1995, counsel for the defendants stated that record which was put to the witness was not traceable and that he may be given time to trace it. The matter was then adjourned to 25.04.1995.

On 25.04.1995, it was recorded that no PW was present and for production of PWs and for cross-examination, the matter was adjourned to 07.06.1995 and on that day, the matter was again adjourned to 04.09.1995 on account of absence of counsel for the plaintiff.

On 04.09.1995, counsel for the defendant stated that the file referred to earlier on 21.02.1995, was still not traceable and an adjournment was sought for cross-examination of PWs etc. The matter having been adjourned to 04.10.1995, it was again adjourned to 11.10.1995 in the presence of both counsel with the following orders, “At the request to come up on 11.10.95 for compromise”.

The same order was repeated on 11.10.95 and the matter was adjourned to 21.10.95, when again it was adjourned to 4.11.95 for consideration. Yet again, it was adjourned to 25.11.95, on which date it was adjourned to 8.12.1995 for consideration. On that date again, it was adjourned to 10.1.96 “for compromise”.

On 10.1.96 the following order was recorded:-

"Parties failure to effect compromise. Now PW be produced on 23.2.96 for cross-examination".

On 23.2.96, it was recorded that the plaintiff had not come present for cross-examination and that he should be produced for the said purpose on 2.3.96. On that date, on request (not recorded as to whose request) the matter was adjourned to 19.4.96 for cross-examination of plaintiffs' witnesses, on which date it was adjourned on request of counsel for the defendants to 28.5.96.

On 28.5.96, an application is seen to have been filed by the defendants for treating issues No.6 and 7 as preliminary issues. A reply to the said application is shown to have been filed on 23.7.96. The order dated 26.8.96 is wholly illegible, after which the order dated 10.09.1996 is to the effect that the matter was adjourned to 8.11.96 on account of some issue with the Presiding Officer. Again, it was adjourned, on request of counsel (not given which counsel), to 6.12.96, on which date it was again adjourned by the Presiding Officer to 20.12.96. Yet again, it was adjourned, on request, to 7.1.97 and thereafter 21.1.97.

On 21.1.97, the counsel for the defendant made a statement that he did not press the application for treating issues No.6 and 7 as preliminary issues and upon that, the case was adjourned to 25.2.97 for evidence of the plaintiff.

On that date, the order of the Additional Civil Judge reads to state that "One PW was present but counsel for the

defendant was not available and therefore the witness could not be examined". The matter was then adjourned to 8.4.97. On 8.4.97, since no PW was present, it was adjourned again to 9.5.97 for evidence of the plaintiff, subject to payment of Rs.75/- as costs.

Finally, on 9.5.97, no witness for the plaintiff being present, the evidence of the plaintiff was closed by order, stating that since the issues were framed as far back as on 10.6.94, and no evidence had been led thereafter, there was no justification for further adjournment.

As already noticed, on that very date, the suit was also dismissed on account of no evidence having been led by the plaintiff.

17. Having considered the above, though undoubtedly it is seen that about one and half months prior to dismissal of the suit, one PW is shown to have been present, but could not be examined due to absence of counsel for the defendant; however, I am still not inclined to agree with the learned counsel for the plaintiff, in view of the fact that even prior to 25.2.97 at least 5 opportunities were given to the plaintiff to lead his evidence, with no result. Without a doubt, the case was adjourned on about 3 to 4 occasions due to some action/inaction on the part of the defendants' counsel. Twice or thrice it was adjourned due to some difficulty with the learned Presiding Officer. On 3 or 4 occasions it was shown to have been simply adjourned on request, without any elaboration as to on whose behalf the request was made. But even

on these occasions, no witness for the plaintiff is shown to have been present. Only on 25.02.1997, the plaintiffs' witness was present, but could not be examined on account of absence of the counsel for the defendant.

Learned counsel for the appellant is of course correct to say that on 25.02.1997 it was adjourned to 08.04.1997 even though a PW was present. However, on 08.04.1997, it was again adjourned on that date for 09.05.1997, since no PW was present. Thus, as per learned counsel, simply because no PW was present on two dates after 25.02.1997, the evidence was closed and the suit was dismissed.

Factually, as seen, that is not the case and earlier also it had been adjourned about six times for various reasons, but with no witness for the plaintiff being present.

In between, a compromise was also attempted by the parties and as such, it was adjourned for that reason.

Yet, even in the aforesaid circumstances, it cannot be lost sight of that ample opportunities had been granted by the learned Civil Judge to the plaintiff to get himself cross-examined as a PW and to examine any other witness, which was not done, except on one occasion when a PW is shown to be present on 25.02.1997, as noticed.

18. No doubt, after the order of remand by this Court to the lower Appellate Court, that Court could have allowed additional evidence to be led, on the application filed under Order 41 Rule 27 CPC. However, as regards even such evidence as was sought to

be led, it is seen that even if the affidavit of the late Giani Ram Singh, Advocate, dated 13.11.2000, had been proved to be correct, stating that he was on bed rest on the date that the suit was dismissed (on 09.05.1997), that still does not alter the fact that Giani Ram Singh, even as per his own affidavit, was admitted to hospital only on 04.04.1997. By that date, as already stated, enough opportunities had been granted to the plaintiff to get himself cross-examined and to examine any other witness. Thus, though undoubtedly, 08.04.1997 and 09.05.1997 would be two dates during the counsels' period of illness, on which he was not present in Court (if his affidavit is proved), that by itself, does not, in the opinion of this Court, justify the number of opportunities not availed of by the plaintiff to either get himself cross-examined, or to produce any other witness, except on one occasion on 25.02.1997.

19. Other than the above, it is also seen from the record of the lower Courts that in the reply filed by defendant No.1 Ved Parkash, to the suit, it is specifically stated in paragraph 10 thereof, that earlier also the plaintiff had filed a Civil Suit bearing No.137/RT 318 of 1981 before the Sub-Judge Ist Class, Muktsar, seeking a declaration that he was the owner in joint possession of a 1/6th share of land measuring 52 Kanals, i.e. the suit land in the present *lis* also.

It is further stated in the written statement that issues were framed in that case on 30.10.1981, after which the plaintiff was given numerous opportunities to lead his evidence but

eventually with the last date given for production of such evidence not having been availed of, that suit was dismissed on 27.10.1983.

An application for restoration of the suit was also filed, which was dismissed on 21.01.1985, with that order not ever challenged. Thus, in fact, according to the written statement filed by defendant No.1 (the father of present respondent No.1), the suit in the present *lis*, filed by the same plaintiff seeking a declaration qua the same suit land, was barred on the principle of *res judicata*.

20. The plaintiff filed a replication to the aforesaid written statement, simply stating therein, (in paragraph 10 of the reply to the preliminary objections), that since the previous suit had been dismissed for non-prosecution/in default, that judgment would not constitute *res judicata* to bar the plaintiff from filing a suit on the same cause of action.

Thus, the contention of defendant No.1, with regard to the filing of the previous suit on the same cause of action, and the dismissal of that suit in default/non-prosecution, was not denied by the plaintiff.

21. A perusal of the record of the lower Courts further shows that as regards the application for restoration, filed in the earlier suit, a very detailed order, after framing issues on whether there were sufficient grounds for restoration or not, and whether the application was not maintainable or not, the learned Sub-Judge Ist Class, vide his order dated 21.01.1985, dismissed that

application by an eleven page order, holding therein that firstly, the ground of illness given by the applicant-plaintiff was not proved, as the evidence led in that regard by him was totally contradictory and further, even the doctor who had appeared as a witness did not depose a single word with regard to the nature of the illness of the plaintiff, except that he was suffering from high fever, whereas the case of the applicant-plaintiff was that he had, in fact, fallen ill one day prior to the date of the dismissal. Hence, in short, the illness of the applicant-plaintiff was not believed by that Court in the year 1985, while dismissing the application on 21.01.1985.

It is further seen from that order that even the counsel for the applicant-plaintiff did not appear in the suit on the date that it was dismissed, though he was actually otherwise represented by four lawyers.

Thus, the said application for restoration (as also another application filed by the applicant under Order 39 Rule 2-A CPC) was dismissed vide an order dated 21.01.1985.

22. The above facts have been referred to by this Court though otherwise that would be subject matter of consideration by the lower appellate Court, if the appeal had been decided on merits by that court, after it was remanded to it by the order of this Court in S.A.O No.5 of 2001. Yet, it is felt necessary by this Court to refer to the aforesaid facts, because in the present round of litigation, the suit was again eventually dismissed for non examination of the witnesses by the plaintiff (including not getting

himself cross-examined); and virtually for the same reason, i.e. for non-leading of evidence in the previous round of litigation from the years 1981 to 1983, the previous suit had been dismissed for non-prosecution, in the same circumstances.

23. Further, even if the aforesaid evidence with regard to the previous round of litigation is to be ignored by this Court, since it would otherwise need to be looked at on merits by the first Appellate Court as already said, to see if the previous lis operated as *re judicata* thus barring the 'present suit', yet, even as regards the present round of litigation, I see no error in the order of the lower Appellate Court in not allowing additional evidence to be led, with one part of the additional evidence only being with regard to non-presence of counsel due to illness for about one and half months and the other piece of evidence sought to be led being revenue record for the years 1985-86. Obviously, the plaintiff had more than sufficient opportunities to lead the revenue record by way of evidence before the learned Civil Judge also, which he did not do. Further, even presuming that the *jamabandi* for the year 1985-86 had evidentiary value of some kind, beneficial to the plaintiff, the fact still remained that he himself did not appear for his own cross-examination, thereby not supporting his own suit, till it was dismissed .

24. Consequently, I find no merit in the arguments of learned counsel for the appellant that at least one more opportunity should have been granted to lead additional evidence by the first appellate court, as the order in S.A.O. No.5 of 2001

precluded (for good reason) that opportunity to the plaintiff before the trial Court, as granted to him by the lower Appellate Court.

25. Therefore, in the entire circumstances enumerated hereinabove, the dismissal of the first appeal by the lower Appellate Court cannot be faulted, in the opinion of this Court.

Consequently, finding no merit in this appeal, it is dismissed, with costs of Rs.5000/-

(AMOL RATTAN SINGH)
JUDGE

September 2, 2016
dinesh/davinder kumar

Whether speaking / reasoned Yes/No

Whether reportable Yes/No