

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

**RSA-4434-2011 (O&M)
Date of decision : 27.09.2016**

Ranjit Singh

... Appellant

Versus

Inderjit Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vikas Singh, Advocate
for the appellant.

Mr. Amarjit Markan, Advocate
for respondent Nos.1 & 5.

AMIT RAWAL, J. (ORAL)

CM-12832-C-2011

For the reasons mentioned in the application, the delay of 64 days
in re-filing the appeal is condoned.

CM stands disposed of.

RSA-4434-2011

Mr. Vikas Singh, learned counsel for the appellant-defendant
submits that during the pendency of the appeal, before the lower Appellate
Court an application dated 05.08.2008 filed under Order 41 Rule 27 CPC
for placing on record the certain documents by way of additional evidence
was moved, but the same was remained undecided.

Mr. Amarjit Markan, learned counsel appearing on behalf of
the respondents-plaintiffs submits that even otherwise, the evidence sought
to be placed on record, would not help the case of the appellant-defendant

as the purpose for which is conspicuously wanting.

I have heard learned counsel for the parties and appraised the paper book and as well as the record of Lower appellate Court.

Admittedly the application aforementioned was filed and there is no order for deciding of the same. In view of the ratio decidendi culled out by the judgment of the Hon'ble Supreme Court in "*Malayalam Plantations Ltd. Vs. State of Kerala and another* AIR 2011 SC 559", the application has to be decided along with the appeal and therefore, the matter is required to be remitted back to the lower Appellate Court to decide the appeal afresh along with application stated to be pending.

For the foregoing reasons, the judgment and decree of the lower Appellate Court is hereby set aside and the matter is remitted back to the lower Appellate Court to decide the appeal afresh along with the application in accordance with law as expeditiously as possible preferably within a period of 10 months from the date of receipt of the certified copy of the order.

Learned counsel for the parties and as well as the parties are directed to appear before the lower Appellate Court on 26.10.2016.

With the aforesaid observations, the appeal stands disposed of.

27.09.2016
yogesh

(AMIT RAWAL)
JUDGE

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Whether speaking/reasoned Yes/ No

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Whether Reportable Yes/ No