

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

**SAO No.72 of 2011 (O&M)
Date of decision: 21.07.2016**

Ved Parkash

....Appellant

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Rakesh Nehra, Advocate for the appellant.

Mr. Kapil Bansal, DAG, Haryana.

Mr. S.P. Chahar, Advocate for respondent No.2.

REKHA MITTAL J. (Oral)

The present appeal has been directed against the judgment dated 13.04.2011 passed by the Additional District Judge, Rohtak whereby the plaint is order to be returned to the plaintiff for presentation to the Court in which suit should have been instituted.

Counsel for the parties are ad idem that the judgment passed by the Appellate Court may be set-aside, the matter may be remitted to the Court of Appeal for decision of the appeal afresh only qua question of possession and entitlement of the appellant to get injunction on the basis of possession only. However, the finding of the trial Court with regard to jurisdiction may not be taken into consideration.

In view of the above, the appeal is allowed, the order dated 13.04.2011 is set-aside and the matter is remitted to the First Appellate Court for decision of the appeal afresh only qua findings on Issues No.1 and 5. The findings on the issue qua jurisdiction of Civil Court, recorded by the trial Court shall be deemed to be set-aside and not amenable to challenge in appeal.

The parties through their counsel are directed to appear before the First Appellate Court on 23.08.2016.

In the meantime, the parties shall maintain *status quo* regarding possession as it stands today.

21.07.2016

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**(REKHA MITTAL)
JUDGE**