

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.315 of 2012 (O&M)

Date of Decision: October 26th, 2016

Haryana Financial Corporation, Chandigarh & another

...Appellants

Versus

Randhir Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Rajesh Hooda, Advocate,
for the appellants.

Mr.S.K.Garg Narwana, Senior Advocate with
Mr.Virat Amarnath, Advocate,
for respondent No.1.

Mr.S.S.Walia, Advocate,
for respondent Nos.3 to 7.

AMIT RAWAL, J. (Oral)

CM Nos.819-C of 2012 & 820-C of 2012

For the reasons mentioned in the applications, which are supported by affidavits, delay of 128 days in re-filing and 4 days in filing the appeal is condoned.

Application stands disposed of.

RSA No.315 of 2012.

Concededly, the application under Section 41 Rule 27 CPC before the Lower Appellate Court at the instance of the appellant-Haryana Financial Corporation was filed, which has not been specifically decided. This fact is not disputed by Mr.S.K.Garg Narwana, learned Senior Counsel assisted by Mr.Virat Amarnath.

In view of the aforementioned facts, I am of the view that the appeal has to be remitted back as it is settled law that the application for additional evidence has to be decided in view of the ratio decidendi culled out by the Hon'ble Supreme Court in **Malayalam Plantations Ltd. Versus State of Kerala and another**, 2011 AIR SC 559.

Accordingly, the judgment and decree of the Lower Appellate Court is not sustainable and is hereby set-aside the matter is remitted back to the Additional District Judge, Jind for adjudication of the appeal afresh and also the application for additional evidence.

The parties, through their counsel, are directed to appear before the Lower Appellate Court on 1.12.2016.

Appeal stands disposed of.

October 26th, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No