

213

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

**RSA-3220-2012 (O&M)
Date of decision : 22.04.2016**

Ramji Lal

... Appellant

Versus

Mandir Shree Laxmi Narain

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. R.S. Mamli, Advocate
for the appellant.

Mr. Mandeep Singh Kundu, Advocate for
Mr. J.S. Cooner, Advocate
for the respondent.

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

AMIT RAWAL, J. (ORAL)

CM-8556-C-2012 & CM-2276-C-2013

For the reasons mentioned in the application, the delay of 912 days
in filing the appeal is condoned.

CM stands disposed of.

RSA-3220-2012

The appellant-defendant is in regular second appeal against the
judgment and decree rendered by the lower Appellate Court, whereby the suit
for permanent injunction at the instance of the respondent-plaintiff has been
decreed in toto.

Mr. R.S. Mamli, learned counsel appearing on behalf of the appellant-defendant submits that the trial Court found that there were popular trees standing on the land and the appellant-defendant being tenant entitled to 1/3rd share in the aforementioned trees being cash crop. However, lower Appellate Court reversed the findings on the basis of misplaced reasoning and misreading of the documents, thus, there is a fallacy and urges this Court to formulate the substantial questions of law as carved out in the memorandum of appeal.

He further submits that the respondent-plaintiff has failed to prove on record regarding the plantation of the 700 popular trees standing on the Dol. Having failed to do so, the suit ought to have been dismissed. Once, the appellant-defendant has been found to be tenant, rightly held entitled to be 1/3rd share and urges this Court for setting aside the judgment and decree of the lower Appellate Court.

Mr. Mandeep Singh Kundu, Advocate for Mr. J.S. Cooner, learned counsel appearing on behalf of the respondent-plaintiff submits that there is no illegality and perversity in the findings arrived at by the lower Appellate Court for the reason that against the judgment and decree of the trial Court, the appellant-defendant and as well as the respondent-plaintiff filed the appeal and cross-objections, respectively. The appeal filed by the appellant-defendant has been dismissed and the cross-objection filed on behalf of the respondent-plaintiff has been allowed. The trial Court found that the popular trees would fall within definition of tress and ownership would vest with the owner of the land and not of the planter. The proposition of law has already been settled by this Court in **“Ghasi Ram V/s Arun Kumar”, 2006(1) RCR (Civil) 751.**

I have heard the learned counsel for the parties and appraised the paper book. In view of the ratio decidendi culled out by the judgment rendered in *Ghasi Ram's* case (supra), trees are incidental to the ownership of the proprietor. Once the respondent-plaintiff has been held to be ownership of the land being deemed to be owner of trees also, the appellant-defendant being tenant does not have any right to claim any share in the aforementioned popular trees being cash crop.

Keeping in view the aforementioned facts and circumstances of the case, I do not find any illegality and perversity in the judgment and decree of the lower Appellate Court which is based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination. Accordingly, the judgment and decree of the lower Appellate Court is affirmed.

With the aforesaid observations, the appeal stands dismissed.

22.04.2016
yogesh

(AMIT RAWAL)
JUDGE