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

**RSA-143-2015 (O&M)
Date of decision : 17.03.2016**

Jaswant Singh

...Appellant

Versus

Bahadur Singh and others

...Respondents

Present: Mr. D.V. Sharma, Senior Advocate with
Ms. Shivani Sharma. Advocate
for the appellant.

Mr. Harsh Bhunger, Advocate
for the respondents.

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)

The appellant-defendant is aggrieved of the judgment and decree of the lower Appellate Court whereby, the application filed under Order 41 Rule 27 of the Code of Civil Procedure (hereinafter called 'CPC') has not been decided by the lower Appellate Court.

Mr. D.V. Sharma, learned Senior Counsel assisted by Ms. Shivani Sharma, learned counsel appearing on behalf of the appellant-defendant submits that as per the zimini order dated 13.08.2003, the application remain undecided.

I have gone through the record of the lower Appellate Court and as well as the zimini orders and of the view that there is no separate decision,

much less, adjudication of the application in the impugned judgment and decree. This fact could not be disputed by Mr. Harsh Bhunger, learned counsel appearing on behalf of the respondents.

Keeping in view the ratio laid down by the Hon'ble Supreme Court in *“Malayalam Plantations Ltd. V/s State of Kerala and another, 2011 AIR SC 559”*, the matter is required to be remitted back to the lower Appellate Court to decide the appeal along with the application filed under Order 41 Rule 27 CPC which has to be decided along with the appeal.

In view of the aforementioned facts and circumstances of the case, the impugner 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 along with the application afresh in accordance with law.

The said appeal is ordered to be restored to its original number.

The parties are directed to appear before the lower Appellate Court on 21.04.2016.

It is expected that the lower Appellate Court shall decide the appeal as expeditiously as possible preferably within a period of five months from the date of receipt of the certified copy of this order.

With the aforesaid observations, the appeal stands disposed of.

17.03.2016
yogesh

(AMIT RAWAL)
JUDGE