

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

SAO No.19 of 2016(O&M)

Date of decision:6.10.2016

Harpal Singh and others

....Appellants

VERSUS

Karambir Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. G.S. Brar, Advocate for the appellants.

REKHA MITTAL, J. (Oral)

The present appeal has been directed against order dated 21.10.2015 passed by the Additional District Judge, Jalandhar whereby the judgment and decree passed by the trial Court dated 15.02.2013 has been set aside and the trial Court has been directed to return the plaint along with documents to the appellants to be presented before the competent Court.

Counsel for the appellants has submitted that as the Court of appeal has affirmed findings of the trial Court that suit filed by the respondents for recovery falls under Section 77(3) (k) of the Punjab Tenancy Act, 1877 (in short 'the Act') according to which only Revenue Court can entertain and decide such matters, the Court of appeal should have refrained from recording any findings on merits of the controversy.

I have heard counsel for the appellant perused the paper-book particularly the judgment dated 15.02.2013 passed by the Additional Civil Judge (Senior Division), Phillaur (hereinafter to be referred as the trial

Court) and the judgment passed by the Additional District Judge, Jalandhar.

The trial Court in para 39 of the judgment has held, reads thus:-

“39....So the case of plaintiffs falls under Section 77(3) (k) of the Punjab Tenancy Act. As per the above stated provisions the Revenue Court can entertain the suit by a co-sharer in the estate or holding for a share of settlement of account. So if the plaintiff has any grievance against the defendants they can file suit in the revenue courts as per Section 77 (3) (k) of the Punjab Tenancy Act and this Court has no jurisdiction to entertain the present suit.”

The findings recorded by the trial Court in this regard have been affirmed by the Court of appeal and on that basis, the judgment and decree passed by the trial Court has been set aside with a direction to the trial Court to return the plaint along with relevant documents for presentation before the competent Court. As both the Courts have consistently held that jurisdiction to decide the dispute in question lies exclusively with the Revenue Court, any findings recorded by the Courts below in regard to merits of the case would not cause prejudice to either of the parties at the time of decision of the case by the Revenue Court.

In view of observations made hereinabove, the appeal stands disposed of.

OCTOBER 6, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no