

In the High Court of Punjab and Haryana at Chandigarh

SAO No. 65 of 2016

Date of Decision: 18.11.2016

Leelu Ram through his LR

---Appellant

versus

Kabool Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr.J.S.Mehndiratta, Advocate
for the appellant**

Rekha Mittal, J.

The present appeal directs challenge against order dated 20.8.2016 passed by the District Judge, Bhiwani whereby the appeal preferred by the respondent/plaintiff against dismissal of his suit for recovery vide judgment and decree dated 6.8.2013 passed by the trial court has been partly allowed. The judgment and decree has been set aside and the case has been remitted to the trial court with a direction to give an opportunity to the respondent/plaintiff for further cross examination by the petitioner/defendant and then to dispose of the suit, as per law.

After arguing for sometime, counsel for the appellant confines his prayer that as the Court of Appeal has provided an opportunity to the respondent/plaintiff to tender himself in the witness box for his further cross examination, one opportunity is required to be provided to the appellant/defendant for leading any evidence in rebuttal.

I have heard counsel for the appellant, perused the paper book

particularly the order impugned.

As the Court of Appeal has allowed an opportunity to the respondent/plaintiff for his further cross examination, the petitioner/defendant is certainly entitled for an opportunity to lead evidence to counter the statement of respondent/plaintiff. In this view of the matter, the appeal stands disposed of by way of modification of the impugned order that after cross examination of the respondent/plaintiff is concluded in terms of the order dated 20.8.2016 passed by the Court of Appeal, the petitioner/defendant shall be entitled to one effective opportunity to adduce evidence to rebut the evidence adduced by the respondent/plaintiff.

Before parting with the order, it is clarified that the petition has been disposed of without notice to the respondent in order to avoid inconvenience and incurring expenditure by him. However, if the respondent has any grievance to express, he shall be at liberty to file an appropriate application before this Court.

(Rekha Mittal)
Judge

18 .11.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No