

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

-.-

SAO 86 of 2016 (O&M)
Date of decision: 07.10.2016

Mohinder Singh

..... Appellant

Versus

Jagtar Singh and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Baldev Raj Mahajan, Senior Advocate with
Mr. Prateek Mahajan, Advocate
for the appellant

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Rekha Mittal, J. (Oral)

The present appeal has been directed against judgment and decree dated 17.08.2016 passed by the Additional District Judge, Amritsar whereby judgment and decree dated 02.09.2014 passed by the Additional Civil Judge (Senior Division) Baba Bakala Sahib, Amritsar was set aside and the case has been remitted to the trial Court for decision afresh.

Counsel for the appellant has submitted that a civil suit for possession by way of specific performance of agreement to sell dated 29.04.2005 was filed by the appellant against Amrik Kaur, Jagtar Singh, Major Singh and Palwinder Kaur in the year 2005. The suit was earlier decreed vide judgment and decree dated 28.07.2009 and said judgment and decree had attained finality upto Hon'ble the Supreme Court of India.

However, Jagtar Singh filed an application under Order 9 Rule 13 of Code

of Civil Procedure for setting aside the ex parte judgment and decree passed in the year 2009 and his application was allowed and as a consequence, the suit was revived only against Jagtar Singh. The said suit was decided by the trial Court on 02.09.2014 but the Court of appeal has revived the proceedings without fixing any schedule with regard to time in which Jagtar Singh respondent No. 1 is required to complete his evidence and thereafter, the case is to be decided on merits. It is vehemently argued that as the appellant is pursuing his remedy for the past more than 11 years and the parties had even gone up to Hon'ble the Supreme Court, he has not been able to enjoy fruits of the litigation. It is prayed that the appeal may be disposed of with a direction to the trial Court to conclude evidence of respondent No.1 in a time bound manner and thereafter to decide the suit within a stipulated period.

I have heard counsel for the appellant, perused the paper book and the various annexures appended with the appeal.

The contentions raised by counsel for the appellant with regard to pendency of proceedings since 2005 and earlier judgment and decree passed way back in 2009 having attained finality upto Hon'ble the Supreme Court of India are borne out from the materials on record. A perusal of judgment and decree passed by the trial Court in the year 2014 would make it evident that the suit was revived in the year 2014 and the same was decided in 2014 itself.

In the given facts and circumstances of the present case, the appeal is disposed of with a direction to the trial Court to conclude evidence of the respondent/defendant within a period of one month from the next date

fixed in the case and thereafter decide the case within a period of one month from the date of conclusion of evidence of the defendant and evidence by the appellant/plaintiff, if any, allowed to be adduced, in accordance with law.

(Rekha Mittal)
Judge

07.10.2016
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No