

SAO No. 86 of 2015(O&M)
Date of Decision: 11.1.2016

Ashok Kumar and others

---Appellants

versus

Ram Parshotam

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Ms. Mansi Bansal, Advocate for
Mr. S.K.Sharma, Advocate for the appellants

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

Rekha Mittal, J.

The present appeal lays challenge to the judgment and decree dated 21.4.2015 passed by the Additional District Judge, Hoshiarpur, accepting the appeal filed by the respondent/plaintiff and set aside the judgment and decree dated 27.05.2011 passed by the Civil Judge (Junior Division), Hoshiarpur (hereinafter referred to as “the trial court”) whereby the suit of the respondent/plaintiff was dismissed.

The respondent-plaintiff filed a suit for possession in respect of a shop detailed in para 1 of the judgment passed by the trial court. The respondent appeared in the witness box for his examination in chief and thereafter did not turn up for his cross examination nor examined any other witness. As a consequence, the evidence of the respondent was closed by order on 2.5.2011. As the respondent did not lead any evidence to prove the averments set up in the plaint, the suit was dismissed by the learned trial

court.

The respondent preferred an appeal to assail the judgment and decree passed by the trial court and the same has been allowed by the Additional District Judge, Hoshiarpur and the case has been remanded to the trial court for decision afresh after giving stipulated number of opportunities to the parties to adduce their evidence. The appellate Court has noticed that no opportunity was afforded to the respondent/plaintiff to lead evidence after framing of issues which were framed by the trial court on 27.5.2011 after evidence of the respondent/plaintiff was closed by order of the Court.

Counsel for the appellants has not disputed factual findings recorded by the first appellate court that the issues in the case were framed on 27.5.2011 and thereafter the respondent/plaintiff was not afforded any opportunity to adduce his evidence. In view of these factual findings, I do not find any error much less illegality in the impinged judgment as would call for intervention.

Before parting with this order, it is pertinent to mention here that the appellate court has fixed the number of opportunities each party shall be entitled to avail for adducing evidence. Keeping in view that a suit filed in the year 2009 has been revived on the board of the trial court as a consequence of acceptance of appeal of the respondent/plaintiff, the trial court shall put its best endeavour to dispose of the suit expeditiously preferably within a period of 08 months.

(Rekha Mittal)
Judge

11.1.2016
PARAMJIT