

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

**CR No. 157 of 2017
DECIDED ON: JANUARY 16, 2017**

ANUP KAUR & OTHERS

.....PETITIONERS

VERSUS

NIRMAL SINGH & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Premjit Kalia, Advocate
 for the petitioners.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Article 227 of the Constitution of India, petitioners have sought setting aside the order dated August 04, 2016 passed by learned Additional District Judge, Amritsar whereby, an application under Order XLI, Rule 21 read with Section 151 of the Code of Civil Procedure, 1908 (for brevity 'Code') moved by respondent No.1 for setting aside the judgment and decree dated February 06, 2014 passed by learned trial Court has been allowed.

At the very outset of arguments, it has emerged that instant petition is not maintainable, in view of Order XLIII, Rule 1(t) of the Code, which provides an appeal against the order of refusal under rule 19 of Order XLI to re-

admit, or under rule 21 of Order XLI to re-hear, an appeal. However, the afore-said order does not provide for an appeal where an application under rule 19 of Order XLI has been allowed. Instant petition under Article 227 of the Constitution of India, appears to have been filed just to circumvent the provisions of the 'Code'. Thus, it stands dismissed.

JANUARY 16, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No