

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.4294 of 2013(O&M)

Date of Decision: 26.05.2017

Haryana State Agriculture Marketing Board

... Appellant

Versus

Baldev Singh (now deceased) through LRs

... Respondent

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Naveen Gupta, Advocate,
for the appellant.

None for the respondents.

RAJIV NARAIN RAINA, J.(Oral)

Despite service no one appears for the respondents nor any pass over has been sought.

Learned counsel for the appellant has been heard and the following order is proposed to be passed:-

Points out to the fundamental flaw in the judgment in appeal where Ex.P-8 has been ascribed belonging to the plaintiff-respondent but this position is not factually correct since the adverse remarks have been expunged. That document originating from the Coordination Officer, Chief Administrator, HSAMB, Panchkula, relates to the case of one Daya Nand Kaushik, the plaintiff who is disadvantage is Baldev Singh. It is argued that this error is fatal to the action and has derailed the line of thinking. The contention has substance and is accepted.

Therefore, the only correction that can be made in the unsustainable part of the reasoning is by remand. The lower appellate court

would re-examine Ex.P-8 and to see what effect it has on the judgment and decree in appeal. For ease of reference copy of Ex. P-8 falls at Annex P-4 at p.60 of the paper-book. The fundamental error has unfortunately occurred in para. 12 of the judgment and decree of the learned Additional District Judge, Panchkula, dated 16.7.2013.

Accordingly, the appeal is partially allowed and the case is remanded to the Lower Appellate Court for passing a fresh judgment as per remand directions. Towards which end the judgment and decree in appeal is set aside by necessity so that the mind can be applied from scratch without the burden of the judgment. However, additional evidence would not be permitted unless an order is passed in writing recording reasons that ends of justice would be best served if permission is granted.

26.05.2017
monika

(RAJIV NARAIN RAINA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>