

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

CR No.1999 of 2017
Date of decision : 21.02.2018

Het Ram @ Kala and others

...Petitioners

Versus

Tej Pal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajay Ghangas, Advocate for the petitioners.

Mr. Adarsh Jain, Advocate for respondent Nos.1 and 2.

ANIL KSHETARPAL, J. (ORAL)

The defendants are in the revision petition against the order dated 27.01.2017 passed by the learned First Appellate Court allowing the appeal filed by the plaintiffs and setting aside the order passed by the trial Court, rejecting the plaint under Order 7 Rule 11 CPC.

The defendants-petitioners submit that in view of the earlier judgment passed by the Court on 19.03.1957, the plaintiffs have no right to file a fresh suit for redemption. The defendants-petitioners submit that since the predecessor of the plaintiffs had filed an earlier suit for possession by way of redemption wherein a finding was returned that the right of redemption stands extinguished on account of lapse of time, therefore, second suit is not maintainable.

In the considered opinion of this Court, rather than deciding

this issue without granting opportunity to the parties to lead evidence, it would be more appropriate if the trial Court frames an issue of res judicata and decide the same as a preliminary issue within a period of six months after granting opportunity to both the parties.

In view thereof while disposing of the revision petition, the learned trial Court is requested to frame a preliminary issue on the issue of res judicata and decide the same within a period of six months after granting opportunity to both the parties to lead evidence on the preliminary issue.

Revision petition is disposed of.

21.02.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No