

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4432 of 2015 (O&M)
Date of Order:02.11.2018

Pushpa Devi and others

..Appellants

Versus

Sajjan Kumar and another

..Respondents

RSA No.4433 of 2015 (O&M)

Pushpa Devi and others

...Appellants

Versus

Sajjan Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harsh Aggarwal, Advocate,
for the appellants.

Mr. Durgesh Aggarwal, Advocate,
for the respondents.

ANIL KSHETARPAL, J(Oral)

By this common order, Regular Second Appeal No.4432 and
4433 of 2015 shall stand disposed of.

On 12.10.2017, learned counsel for the appellants had
contended as under:-

*“Learned counsel for the appellant submits that the
plaintiffs had filed two suits i.e. Civil Suit
no.43/04.09.2001, suit for permanent injunction and
Civil Suit No.163/03.04.2003, suit for declaration. Both
the suits were decided by the same Civil Judge by
separate judgments of the even date i.e. 17.11.2011.*

Two appeals were preferred. Both the appeals have been decided presuming that they are arising out of one suit i.e. suit for injunction.

Learned counsel for the appellants has further contended that the issues as framed in the suit for declaration have not been discussed.

Notice of motion for 27.03.2018.

Lower Court records be requisitioned.

The parties are directed to maintain status quo with regard to the alienation and construction.

Photocopy of this order be placed on the file of connected case.”

Learned counsel for the respondents fairly admits that there is a mistake in the judgment passed by the learned first appellate court. Learned counsel for the respondents has also pointed out that first appellate court has also decided a connected cross appeal filed by the defendants by a separate judgment on the same day by the same Presiding Judge.

Keeping in view the admitted position, this court is of the considered view that the learned first appellate court should be requested to re-decide all the 3 appeals. This court is conscious of the fact that the defendants have not filed any separate appeal against the judgment and decree passed by the learned first appellate court. However, since, the entire dispute is inter-connected and inter-related, all the appeals would be required to be re-decided. Therefore, this order is being passed.

Keeping in view the aforesaid facts, both the appeals are allowed, judgments passed by the learned first appellate court in all the

three appeals are set aside and the learned first appellate court is requested to re-decide the appeals while noticing all the facts and issues involved in all the 3 appeals, within a period of 3 months.

Parties through their counsels are directed to appear before the learned first appellate court on 28.11.2018.

Needless to say that it shall be open to the parties to raise all the contentions before the learned first appellate court.

November 02, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No