

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

RSA No.5207 of 2015 (O&M)

Date of Order: 20.02.2018

Jagdish Parshad

....Appellant

Versus

Ram Chander and Anr.

....Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Mukesh Rao, Advocate for the appellant.

Mr. Jatinder Kumar Puri, Advocate for the respondents.

AMIT RAWAL, J (ORAL)

Plaintiff-appellant is aggrieved of the judgment and decree dated 05.3.2015 rendered by the learned Addl. District Judge, Bhiwani whereby appeal No.299 of 2012 titled Ram Chander Vs Jagdish Prasad and Anr. filed against the judgment dated 13.9.2012 passed by learned Civil Judge (Jr. Divn), Charkhi Dadri, partly decreeing the suit, has been disposed of with the direction to the appellant/plaintiff to hand over the vacant possession of the plot in dispute to respondent-defendant.

Learned counsel for the appellant submitted that the plaintiff instituted a suit for possession by way of specific performance of agreement to sell dated 27.12.2002, which was for total sale consideration of Rs.70,000/-. The trial Court while partly decreeing the suit held the plaintiff entitled to recover the amount of Rs.70,000/- Against the said judgment and decree, both the plaintiff-appellant and the respondent-defendant preferred two separate appeals bearing Nos.526 of 2012 and 299 of 2012 respectively. It is submitted that the appeal bearing No.299 of 2012 titled Ram Chander Vs. Jagdish Prasad and Anr has been disposed of vide judgment dated 05.3.2015 whereas the appeal bearing No.526 of 2012

titled Jagdish Prasad and Anr Vs. Ram Chander is still pending adjudication before the lower Appellate Court. It is contended that both the appeal should have been decided together by the lower Appellate Court as the impugned judgment passed in civil appeal bearing No.299 of 2012 would have serious effect on the pending appeal No.526 of 2012.

On the other hand, learned counsel for the respondents has not controverted the aforesaid facts of filing two appeals.

After hearing learned counsel for the parties and appraising the paper book, I am of the view that the verdict passed in civil appeal bearing No.299 of 2012 would definitely have impact on the pending appeal No.526 of 2012. The lower Appellate Court ought to have decided both the appeals together or requested the parties to move appropriate application for clubbing of the same.

Be that as it may, I am of the opinion that once two appeals had been filed against a common judgment dated 13.9.2012 in Civil Suit No.111 of 2010, it would have been in the fitness of things to decide both of them together.

Resultantly, the present appeal is allowed. Judgment and decree dated 05.3.2015 is set aside and the appeal bearing No.299 of 2012 is ordered to be restored and to be decided afresh along with appeal bearing No.526 of 2012 titled Jagdish Prasad and Anr Vs. Ram Chander. Parties are directed to appear before the learned District Judge, Bhiwani on 26.3.2018 for appropriate orders.

February 20, 2018
manoj

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable : Yes/No