

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

**SAO No.80 of 2014 (O&M)
Date of decision : April 20, 2018**

Mohinder Singh and others Appellants

Versus

Canara Bank and another Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. R.K. Bajaj, Advocate for the appellants.

Mr. Bhagwant Singh Sangha, Advocate for the respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Impugned in the present second appeal against the order dated 27.10.2014 passed by learned District Judge, Jalandhar, vide which in a suit for recovery while dealing with the appeal, three additional issues were framed and under Order XLI, rule 25 CPC, 1908, the trial Court was directed to try the issues, record the evidence and return the evidence along with findings thereon.

I have heard learned counsel for the parties and have also carefully gone through the case file.

A perusal of the judgment of the trial Court shows that some issues have been framed. The additional issues No.6(a) and 6(c), which were framed by the lower appellate Court were never framed by the trial Court. Therefore, the lower appellate Court was justified in framing the issues and calling for the report under Order XLI, Rule 25 CPC, 1908.

The plea of learned counsel for the appellant is that the said issues have already been tried and decided in a separate suit.

In my view, the said plea is no ground for not framing the additional issues in the present case. In case, the issues have already been framed and decided in the separate suit, then the said findings can be considered. However, there is no illegality or infirmity in the impugned order framing the additional issues. This Court has been informed that the trial Court has already recorded the additional evidence and returned the findings to the lower appellate Court on 26.10.2016.

It being so, now the appeal is set for decision on merits wherein the present appellant can raise all the available pleas on the basis of evidence available on record. Thus, there is no ground to interfere in the impugned order.

As such, the present appeal is dismissed. Since, the main appeal has been dismissed, therefore, the pending application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

April 20, 2018

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Whether speaking / reasoned Yes

Whether Reportable: No