

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

370

RSA No.3470 of 1998 (O&M)

Date of decision: 11.09.2019

Kirpal Singh and others

... Appellants

Versus

Gurdev Singh and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Deepak Goyal, Advocate for the appellants.
Mr. SS Rangi, Advocate for respondent No.1.
Mr. Amit K. Walia, Advocate for respondents No.2 and 3.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against judgment and decree dated 12.06.1998 passed by the Additional District Judge, Sangrur whereby appeal against the judgment and decree dated 06.08.1994 passed by the trial Court has been dismissed.

Counsel for the appellants would argue that against the judgment and decree dated 06.08.1994, earlier an appeal was filed and the same was decided vide judgment and decree dated 14.01.1997. RSA No.1015 of 1997 was decided by this Court on 15.12.1997 whereby the regular second appeal aforesaid was allowed and the matter was remitted to the Additional District Judge, Sangrur to decide the appeal afresh after giving reasonable opportunity to both sides to adduce evidence on additional issue to be framed, if Gurdev Singh is son of Bachan Singh. It is further argued that the first appellate Court framed additional issue No.3A 'Whether Gurdev Singh is son of Bachan Singh?' and answered the said issue in favour of Gurdev Singh. It is further argued that the first appellate Court has not adverted to findings of the trial Court on other issues particularly issue No.1 'If suit land is co-parcenary or joint hindu family

property? If so, its effect?'. It is argued with vehemence that in the given circumstances, judgment and decree impugned cannot be allowed to sustain and the same may be set aside and the matter be remitted to the first appellate Court for decision of the appeal afresh in terms of order dated 15.12.1997 passed by this Court.

Counsel for the respondents have got no objection, if judgment and decree impugned is set aside and matter is remitted to the successor Court of Sh. SS Hundal, Additional District Judge, Sangrur for decision of the appeal afresh on merits qua the issues framed by the trial Court as well as additional issue framed by the first appellate Court.

In view of what has been discussed hereinbefore, the appeal is allowed, judgment and decree impugned is set aside and the matter is remitted to the successor Court of Sh. SS Hundal, the then Additional District Judge, Sangrur for decision of the appeal afresh in respect of all the aspects (factual and legal) involved in the case, in view of the issues reproduced in para 4 of the judgment impugned. Parties through their counsel are directed to appear before the appellate Court on 03.10.2019. The Court is directed to decide the appeal within 3 months of parties putting in appearance.

11.09.2019

ashok

Whether speaking/reasoned:

Whether reportable:

(REKHA MITTAL)**JUDGE**

Yes / No

Yes / No