

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

**R.S.A. No 4105 of 2019 (O&M)
Date of decision : 04.09.2019**

Ginni Devi through LRs and ors.

....Appellants

versus

Subhash Mehta and ors.

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Akshay Bhan, Sr. Advocate with
Mr. Rose Gupta, Advocate
for the appellant.

Mr. Bhavnik Mehta, Advocate
for the caveator/respondent No. 1

RITU BAHRI, J. (Oral)

The present appeal is directed against judgment and decree dated 09.08.2019 passed by learned District Judge, Hisar whereby the appeal filed by the contesting respondent/plaintiff against the judgment and decree dated 22.01.2016 passed by learned Civil Judge (Jr. Divn), Hisar has been allowed and the judgment and decree dated 22.01.2016 has been set aside and the suit filed by the plaintiff has been remanded back to the learned lower Court , Hisar with the direction that the findings on issue No. 11 and 12 be recorded by the learned Lower Court and the matter be decided afresh, as per law.

Learned senior counsel for the appellants at the very outset has referred to Issue No. 11 and 12 which reads as under:-

“(11) Whether the suit is hopelessly time barred? OPD

(12) Whether the sale deeds in favour of defendants are liable to be protected under Section 41 of Transfer of Property Act? OPD”

Learned senior counsel has argued that once the judgment and

decree dated 22.01.2016 has been set aside, then the issue No. 1 to 10 also stands automatically set aside, which is against the provision of law as the learned Appellate Court has not observed any finding with regard to the fact whether the finding on Issue No. 1 to 10 recorded by the learned lower Court was right or wrong.

On the other hand, learned counsel for caveator/respondent No. 1 also admitted that the matter has been remanded back only with respect to Issue No. 11 and 12 and before the learned trial Court, the arguments have been heard now.

Keeping in view the fact that the learned Lower Appellate Court vide judgment dated 09.08.2019 has remanded the matter back only with respect to Issue No. 11 and 12 and no finding on Issue No. 1 to 10 has been recorded, the present appeal stands disposed of and judgment dated 09.08.2019 is modified to the extent that after the trial Court decides Issue No. 11 and 12, thereafter, a report be sent by the trial Court to lower Appellate Court. The Lower Appellate Court thereafter shall pass a final order on the appeal from Issue No. 1 to 12 after hearing both the parties .

September 04, 2019
G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>