

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

RSA No.6242 of 2016 (O&M)
Date of Decision.27.05.2019

Kehar Singh and another

...Appellants

Vs

Udham Singh and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Deepak Basatia, Advocate
for the appellants.

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AMIT RAWAL J. (ORAL)

The argument of learned counsel for appellants is that application submitted under Order 41 Rule 27 CPC by the appellants remained undecided before lower Appellate Court.

Records of courts below called for by this Court revealed that the application filed by appellants before the lower Appellate Court for placing on record additional evidence under Order 41 Rule 27 CPC was not decided, which is against the settled principle of law culled out by Hon'ble Supreme Court in **Malayalam Plantations Ltd. Vs. State of Kerala AIR 2011 SC 559** wherein it has been held that if any petition is filed under Order 41 Rule 27 CPC in appeal, it is incumbent on the part of the Appellate Court to consider at the time of hearing the appeal on merits so as to find out whether the documents or evidence sought to be adduced have any relevance/bearing in the issues involved.

In view of aforementioned circumstances, judgment and decree passed by lower Appellate Court is set aside and case is remitted to lower Appellate Court to decide the application filed

under Order 41 Rule 27 CPC by the appellants along with main appeal and take a decision afresh within a period of six months from the date of appearance of the parties before it, in accordance with law.

Parties along with their counsel shall appearing before the lower Appellate Court on 30.07.2019.

The regular second appeal stands disposed of.

(AMIT RAWAL)
JUDGE

May 27, 2019

Pankaj*

Whether speaking/reasoned Yes

Whether reportable No