

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

SAO No. 87 of 2016 (O&M)

Date of Decision: 28.05.2019

Pandit Vinod Dass

...Appellant

VERSUS

Sudarshana Devi through LRs and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. R.S. Chauhan, Advocate
for the appellant.

Mr. Inderjit Sharma, Advocate
for the respondents.

SURINDER GUPTA, J. (Oral)

Heard.

The only question, which has been pressed in this appeal, is as to whether order dated 15.09.2016 passed by Additional District Judge, Gurdaspur remanding the case to learned trial Court on the sole ground that respondents were allowed to lead additional evidence to prove document i.e. ration card, voter list, electricity bill etc. is justified and is in accordance with law as per provisions of Rule XLI Rule 28 CPC?

Learned counsel for both the parties are *ad idem* that option before learned Ist Appellate Court after allowing additional evidence is to proceed under the provisions of Order XLI Rule 28 CPC, instead of remanding the case to learned trial Court for decision of the suit afresh.

In view of submissions of learned counsel for parties, this appeal is accepted. Order dated 15.09.2016 passed by learned Ist Appellate Court is set aside to the extent it remands the case to learned trial Court for fresh decision. Learned Ist Appellate Court is directed to proceed further to

dispose of the appeal on merit. Regarding application for additional evidence allowed by Court below, the procedure as mentioned in Order XLI Rule 28 CPC be complied with.

Parties are directed to appear before learned Ist Appellate Court/successor Court on 05.07.2019, on which date appeal file shall be taken on board and proceeded further to dispose of the same as per above observations.

May 28, 2019

jk

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No