

SAO No.34 of 2018 (O&M)

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

SAO No.34 of 2018 (O&M)
Date of decision: 19.11.2019

Gram Panchayat Village Ratipur and another

.....Appellants

versus

Mr. Davinder Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Tushar Gautam, Advocate, for the appellants.
Mr. Mohak Bhadana, Advocate, for the respondent.

RAMENDRA JAIN, J. (ORAL)

Through this appeal, defendants have laid challenge to order dated 24.01.2018 of the lower appellate Court, who while setting aside judgment and decree of the trial Court dated 18.12.2017, dismissing suit of the respondent-plaintiff, remanded case to the trial Court for fresh decision.

Heard.

Having given thoughtful consideration to the rival submissions, this Court finds the instant appeal merits dismissal for the reasons to follow.

While deciding injunction application of respondent under Order 39 Rules 1 and 2 CPC, trial Court observed that suit was not maintainable and dismissed the same. Trial Court was not supposed to make any observation about maintainability of the suit, while deciding application under Order 39 Rules 1 and 2 CPC of the respondent. Still, in case, the trial Court was of the view that suit of the respondent was not maintainable, by taking suo motu cognizance under Order 7 Rule 11 CPC, it

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could pass a separate order, instead of dismissing suit while deciding application under Order 39 Rules 1 and 2 CPC.

Dismissed.

(Ramendra Jain)
Judge

November 19, 2019

R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No