

SAO No.81 of 2018 (O&M)

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

SAO No.81 of 2018 (O&M)
Date of decision: 20.08.2019

Piara Singh and others

.....Appellants

versus

Lakhbir Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Ashish Aggarwal, Advocate, for the appellants.
Mr. R.S. Sidhu, Advocate, for respondents No.5 and 6.

RAMENDRA JAIN, J. (ORAL)

Plaintiffs have preferred this appeal against judgment of the lower appellate Court dated 18.05.2018, whereby their appeal was partly accepted and case was remanded to the trial Court while setting aside its judgment and decree dated 31.05.2017 with a direction to decide the suit afresh by recording specific finding on issue No.4 qua limitation.

Briefly, appellants filed a suit for possession in respect of land measuring 30 kanals 15 marlas out of total land measuring 82 kanals 02 marlas, fully detailed in the headnote of the judgment and decree of the trial Court, situated at Village Sangar, Tehsil Khadur Sahib, District Tarn Taran, against the respondents, which after holding trial, was dismissed being barred by limitation vide judgment and decree dated 31.05.2017.

Being aggrieved, appellants approached the First Appellate Court, who remanded the case to the trial Court in the manner as narrated above in the opening part of the judgment vide judgment dated 18.05.2018.

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Having given thoughtful consideration to the rival submissions made by both the sides, this Court is of the view that lower appellate Court instead of remanding the case to the trial Court ought to have decided issue No.4 qua limitation itself on the basis of evidence already led by both the sides during trial. Remand of the case by the lower appellate Court shows its workshirking attitude and irresponsible conduct. No reason was given by the lower appellate Court as to what was the necessity to remand the case, when no request was made by either side to lead any fresh evidence.

It is needless to mention here that remand of case is not a healthy practice. In normal circumstances, Courts must avoid remand of the case considering the fact that the same puts a huge burden of expenses, re-involvement of precious time and energy of the Court and the litigant. Therefore, sense of responsibility does not permit remand of a case, whereby the appellate Court/authority itself can delve the issue, without any extra pain or efforts only by going through the record which the trial Court could not adhere to inasmuch as the appellate Court has much more wisdom and power than the trial Court to undo an illegality or irregularity committed by the lower Court.

Considering above aspect of the matter, impugned judgment of the lower appellate Court is set aside with a direction to it to decide the appeal in accordance with law on its own after going through the evidence led by both the sides during trial and other relevant record.

Both the parties are directed to appear before the lower appellate Court on 03.09.2019.

Presiding Officer of the lower appellate Court, Mr. Bishan

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an irresponsible manner in future.

Registrar of this Court is directed to communicate this judgment to Mr. Bishan Saroop, Additional District Judge, Tarn Taran.

(Ramendra Jain)
Judge

August 20, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No