

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

**SAO No.21 of 2019 (O&M)
Date of Decision: May 01, 2019.**

Sanjiv Kumar and another

.....APPELLANT(s).

VERSUS

Rajpal and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Rajinder Sharma, Advocate
for the appellant (s).

SURINDER GUPTA, J.

Heard.

This is appeal against the order dated 26.09.2018 passed by Additional District Judge, Amritsar, whereby the appeal filed by respondents No.1 to 4 against the judgment and decree dated 22.09.2015 passed by Civil Judge (Junior Division), Amritsar was set aside and the case was remanded on two grounds; firstly, Yashpal @ Montu and Manish son of Kanta were necessary parties to the suit but had not been impleaded; and secondly, the applications for permission to lead additional evidence moved by respondents No.1 and 2 and Sanjiv Kumar and Balraj Sharma, who are appellants in this appeal, were allowed with observations that documents sought to be produced are necessary and material for just decision of the case.

Learned counsel for the appellants is not challenging the order

of the first Appellate Court setting aside the judgment of the trial Court and remanding the case on the ground that sons of Kanta daughter of Kundan Lal are necessary parties to suit. After the remand, both these persons will have right to file written statement and also to lead evidence including the evidence which has been sought to be produced by respondents No.1 to 4 by way of additional evidence. Learned counsel for appellants submits that he has no objection if that evidence is produced by legal heirs of Kanta. However, respondents No.1 to 4, who have already led the evidence, cannot be allowed to lead aforesaid evidence. The plea raised by learned counsel for the appellants is not tenable as de-novo trial will start after the remand of the case and the appellants-plaintiffs as well as defendants-respondents will have right to lead fresh evidence. If the first Appellate Court has allowed the application of the parties to lead additional evidence, there is no error in the order as respondents No.1 to 4 or the legal heirs of Kanta will also have the right to produce the same after trial is started de novo. Consequently, this appeal has no merits.

Dismissed.

May 01, 2019.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***