

In the High Court of Punjab and Haryana at Chandigarh

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CR-1027-2020 (O & M)

Date of Decision: March 05, 2020

GIRDHARI LAL

.....PETITIONER

VERSUS

AMAR NATH

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Shailendra Sharma, Advocate for the petitioner.

ANUPINDER SINGH GREWAL, J (ORAL)

The petitioner/tenant has challenged the judgment and decree of the Appellate Court whereby his appeal has been dismissed.

Learned counsel for the petitioner/tenant contends that the petitioner/tenant had filed an application under Order 41 Rule 27 of the Code of Civil Procedure, 1908 ('CPC' - for short) for additional evidence before the Appellate Court on 10.03.2016 during pendency of the appeal. Notice had been issued in the application to the non-applicant/respondent/landlord, but the application has not been decided by the Appellate Court although the appeal of the petitioner/tenant was finally decided on 07.01.2020. He also contends that it was necessary for the Appellate Court to decide the application for additional evidence and only thereafter the appeal could have been decided. He has relied upon the judgment of the Supreme Court in the case of **Malayalam Plantations Ltd. v. State of Kerala and another**, (2010) 13 SCC 487.

Issue notice to the respondent/landlord.

Mr. Munish Kumar Garg, Advocate, accepts notice on behalf of the respondent/landlord. He has not been able to controvert the submissions

made by learned counsel for the petitioner/tenant that the application preferred by the petitioner/tenant for additional evidence has not been decided by the Appellate Court.

Heard.

It is not in dispute that on 10.03.2016 an application was preferred by the petitioner/tenant for additional evidence before the Appellate Court. The Appellate Court has not decided this application although the appeal has been decided on 07.01.2020. It has been held by the Supreme Court in the case of Malayalam Plantations Ltd. (supra) that upon an application under Order 41 Rule 27 CPC being preferred during pendency of the appeal, it is incumbent upon the Appellate Court to consider and decide the same at the time of final decision of the appeal on merits as to whether the documents or the evidence sought to be adduced have any relevance/bearing on the issues involved.

Therefore, without expressing any opinion on the merits of the appeal, the judgment and decree dated 07.01.2020 passed by the Appellate Court are set aside. The matter is remanded back to the Appellate Court to decide the application of the petitioner/tenant for additional evidence and the appeal afresh in accordance with law. The Appellate Court shall dispose of the matter expeditiously preferably within a period of six months from today. The parties shall appear before the Appellate Court on 19.03.2020.

The appeal is disposed of in the aforesaid terms.

(ANUPINDER SINGH GREWAL)
JUDGE

March 05, 2020
A.Kaundal

Whether speaking/ reasoned	:	Yes/No
Whether Reportable	:	Yes/No