

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

RSA No. 4018 of 2019 (O&M)

Date of decision: 29.1.2020

Kartar Singh and others

....Appellants

VERSUS

Amar Dass and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. R.D. Gupta, Advocate for the appellants.

REKHA MITTAL, J.(Oral)

Challenge in the present appeal has been directed against decree and judgment dated 09.01.2019 passed by the District Judge, Hoshiarpur.

A relevant extract from order dated 11.12.2019 passed by this Court, reads as follows:-

“The trial court decreed the suit of the plaintiffs in respect of land measuring 22 kanal 9 marlas. The appellants-plaintiffs did not prefer an appeal or cross objections against the judgment and decree passed by the trial court and as such, has attained finality qua the appellants. However, the first appeal was filed by Amar Dass-defendant No. 1 and the Court in Appeal disposed of the appeal but findings of the trial court, in para 21 of the judgment, were set aside. Perusal of operative part of the judgment and decree sheet prepared by the first appellate court do not indicate that decree passed by the trial court has been modified.

Counsel for the appellants prays for time to make submissions with regard to maintainability of the appeal.

Adjourned to 22.1.2020.”

Counsel for the appellants is not in a position to support maintainability of the appeal merely because the Appellate Court had set aside findings of the trial Court recorded in para 21 of the judgment of trial Court when otherwise the Appellate Court has not modified the decree passed by the trial Court in favour of the appellants. In this context, reference can be made to judgment of Hon’ble the Supreme Court **Deva Ram and another Vs. Ishwar Chand and another, 1995 (6) SCC 733.**

In view of the above, the appeal stands disposed of being not maintainable.

JANUARY 29, 2020		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No