

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

RSA-1553-2020 (O&M)
Date of Decision:-25.9.2020

Jaspal Singh and another ... Appellants

Versus

The Punjab Wakf Board, Chandigarh ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vinod Khunger, Advocate,
for the appellants.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The appellants/defendants assail judgment dated 11.2.2020 passed by learned Additional District Judge, Ferozepur, whereby while deciding an appeal filed by Punjab Wakf Board, the parties have been relegated to Punjab Wakf Board. The operative portion of the impugned judgment reads as follows:

“ 31. Resultantly, the present appeal is hereby dismissed.

32. Learned counsel for the plaintiff has been apprised the aforesaid decision, but no application has been moved to fix a date of appearance, where the plaint is to be filed, after its return, as such, without wasting the time, it is ordered that the plaint filed by the plaintiff be returned under order 7 rule 10 of the Code of Civil Procedure, for presentation to the Punjab Waqf Board, Ferozepur,

to pursue the same, in accordance with the provisions prior to the Amendment made in the year 2013 (w.e.f. 01.11.2013).”

2. The learned counsel for the appellants/defendants has submitted that the impugned judgment dated 11.2.2020 is infact against the provisions of Order 7 Rule 10 CPC, which specifically provides that the plaint can only be returned by the Appellate or Revisional Court after setting aside the decree in a suit.
3. I have heard the learned counsel for the appellants/defendants.
4. Order 7 Rule 10 CPC reads as follows:

“10. Return of plaint:-

- (1) Subject to the provisions of rule 10A, the plaint shall at any stage of the suit be returned to be presented to the court in which the suit should have been instituted.

Explanation: For the removal of doubts, it is hereby declared that a Court of appeal or revision may direct, after setting aside the decree passed in a suit, the return of the plaint, under this sub-rule.”

5. A perusal of the impugned judgment dated 11.2.2020 does show that, while returning the plaint it has not been specifically stated that the judgment of the lower Court is set aside. Since, the parties have been relegated to Punjab Wakf Board after return of the plaint in terms of Order 7 Rule 10 CPC, the impugned order dated 11.2.2020 passed by learned Additional District Judge, Ferozepur is modified to the extent that it is clarified that the judgment dated 6.4.2018 passed by learned Additional Civil Judge (Senior Division), Ferozepur is set aside. The Punjab Wakf Board shall decide as regards claims of parties without being influenced by any findings as may have been recorded on merits in the judgment and decree dated 6.4.2018 passed by learned Additional Civil Judge (Senior Division), Ferozepur or in judgment

and decree dated 11.2.2020 passed by learned Additional District Judge, Ferozepur.

6. The appeal stands accepted to the aforesaid limited extent as regards clarification regarding setting aside of judgment and decree dated 6.4.2018 passed by learned Additional Civil Judge (Senior Division), Ferozepur.
7. The appeal stands accepted accordingly to the extent indicated above.

25.9.2020

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No