

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

CR-3198-2017 (O&M)

Date of decision : 14.02.2023

Ajaib Singh

... Petitioner(s)

Versus

Gurdit Singh & Ors.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Yogsimant Attri, Advocate for
Mr. Rajinder Goyal, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

The only grievance of the petitioner in the present revision petition filed under Article 227 of the Constitution of India is that his application for leading additional evidence has been dismissed vide the impugned order dated 21.03.2017 (Annexure P-6) only on the ground that the matter was remanded to the Trial Court on certain points and therefore, no further opportunity could be granted to file any documents.

Learned counsel for the petitioner would contend that vide the order dated 24.01.2017 the matter was remanded to the Trial Court to be decided afresh by keeping in view the facts as discussed in the order.

Respondent No.1 has not put in appearance despite service and was proceeded against *ex parte* vide order dated 15.11.2022.

Heard.

In the present case, vide order dated 24.01.2017 the First Appellate Court had remanded the matter back to the Trial Court for a

decision afresh holding as under :

“15. In view of the same, the judgment and decree sheet passed by the Court and required to be set aside and case is required to be remanded to the Trial Court for afresh decision, in view the above findings given by this Court.

16. Resultantly, appeal is accepted and judgment and decree passed by the Trial Court are set aside. The case is remanded to the Court concerned to decide it afresh after considering the facts. Both the parties, through their counsel, are directed to appear before the Id. Trial court on 19.2.2017. The trial court file be sent back and appeal file be consigned to the records after due compilation.”

The order dated 24.01.2017 is very clear that the judgment and decree passed by the Trial Court was set aside by the First Appellate Court and the case was remanded to be decided afresh. Once the matter was remanded for a decision afresh, the application filed by the petitioner herein for additional evidence ought to have been considered in accordance with law.

In view of the above, the impugned order dated 21.03.2017 (Annexure P-6) is set aside. The Trial Court is directed to consider the application filed by the petitioner herein for additional evidence, in accordance with law.

Disposed off, accordingly. Pending applications, if any, also stand disposed off.

14.02.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO