

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(105)

RSA-995-2022 (O&M)

Date of Decision : 27.02.2023

Amro Devi

...Appellant

Versus

Karnail Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Pankaj Bali, Advocate for the appellant.

Harsimran Singh Sethi J. (Oral)

Learned counsel for the appellant submits that the suit filed by the respondents-plaintiffs was dismissed by the trial court vide judgment and decree dated 23.05.2017 against which, they had preferred an appeal before the lower appellate court, which came to be decided on 28.02.2022.

In the appeal, the judgment and decree of the trial court was set-aside and the suit filed by the respondents-plaintiffs was decreed by placing reliance upon the documents Ex. P9 to Ex. P16, according to which, the revenue authorities had recorded a finding in favour of the respondents-plaintiffs. The said litigation before the revenue authorities is still in progress as, the revision filed by the appellant-defendant is still pending consideration with the revenue authorities concerned.

Learned counsel for the appellant-defendant submits that as the decision placed on record as Ex. P9 to Ex. P16 have not attained finality,

granting the benefit on the basis of the said documents in favour of the respondents-plaintiffs was not right as, the lower appellate court should have given the liberty to the appellant-defendant to avail appropriate remedy in case, the decision of the revenue authorities qua Ex. P9 to Ex. P16 ultimately goes in favour of the appellant-defendant.

In case, any order passed by the revenue authorities has been relied upon by the lower appellate court to record a finding, while deciding the appeal, which decision of the revenue authorities is yet to attain finality and decision of revenue authorities upon Ex. P9 to Ex. P16 hereinafter creates a right in favour of the appellant-defendant upon the final decision of the revenue authorities qua Ex. P9 to Ex. P16, the appellant-defendant can redress her grievance by availing appropriate remedy available under law including revival of the present regular second appeal.

Learned counsel for the appellant-defendant submits that keeping in view the above, the present appeal may kindly be disposed of having been not pressed at this stage.

Ordered accordingly.

CM-3169-C-2022

As the main appeal has been disposed of having been not pressed, the present application stands disposed of as not pressed.

February 27, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No