

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHSAO-32 of 2023 (O&M)
Date of Order: 26.07.2023

Radhika

.Appellant

Versus

Prem Kalia

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Naveen Gupta, Advocate, for the appellant.

Mr. Rakesh Nehra, Sr. Advocate, with
Mr. Sauhard Singh, Advocate and
Ms. Himani Anand, Advocate
for the respondent.ANIL KSHETARPAL, J

1. The First Appellate Court has set aside the judgment passed by the trial court after framing three additional issues for adjudication which read as under:-

- “i) Whether the agreement for sale is legal, valid and enforceable?OPP
- ii) Whether the plaintiff was ready and willing to perform his part of the contract?OPP
- iii) Whether the plaintiff cannot be compensated in terms of money.”

2. The learned counsel representing the plaintiff submits that as per Order XLI Rule 25 CPC, the First Appellate Court should have remanded the case to the trial court for a report on the aforesaid three issues instead of setting aside the judgment and decree passed by the trial court.

3. The learned senior counsel representing the respondent does not dispute the aforesaid position of law.

4. Keeping in view the aforesaid facts, the judgment passed by the First Appellate Court on 10.05.2023 is modified. It is directed that the trial Court shall submit a report before the First Appellate Court after permitting the parties to lead evidence on the aforesaid three issues within a period of three months, from today. Thereafter, the First Appellate Court would proceed to decide the appeal within next four months, from the date of submission of the report.
5. The first appeal filed by the respondent shall be restored to its original number before the First Appellate Court, however, the proceedings shall remain in abeyance till the report of the trial court on aforesaid issues is received.
6. Any of the parties to the dispute shall have the liberty to an application for fixing a date once the report is received.
7. With these observations, the appeal is disposed of.
8. All the pending miscellaneous applications, if any, are also disposed of.

July 26, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	:YES/NO
Whether reportable	:YES/NO