

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

222

RSA No.6985 of 2016 (O&M)
DATE OF DECISION : 27th MARCH, 2023

Kashmir Singh

.... Appellants

Versus

Parkash Singh (Through LRs) & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Aaditya Dassaur, Advocate for the appellant.

Mr. Kunal Mulwani, Advocate;

Mr. Rai Singh Chauhan, Advocate;

Mr. Rohit Sapehiya, Advocate and

Ms. Deepika Chauhan, Advocate for respondents No.2 & 7.

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RAJBIR SEHRAWAT, J. (Oral)

The appellant-plaintiff had filed the present second appeal challenging the judgment and decree dated 31.03.2014 passed by Civil Judge (Sr. Division), SBS Nagar, whereby the civil suit for declaration filed by the plaintiff was dismissed and judgment and decree dated 29.09.2016 passed by the Additional District Judge, SBS Nagar, whereby the appeal of the plaintiff was also dismissed.

It is not even disputed by the parties that the appellant had filed an application for additional evidence before the lower appellate court. However, the said application was not decided by the lower appellate court either way. The counsel for the appellant has relied upon the judgment of the Supreme Court passed in the case of *Sanjiv Goel Vs. Avtar S. Sandhu, 2006(9) SCC 748*, wherein it has been held that in such a situation the matter deserves to be remanded to the lower appellate

court by setting aside the judgment and decree. Even the counsel for the respondents could not dispute the legal proposition relied upon by counsel for the appellant.

In view of the above, the judgment and decree passed by the lower appellate court is set aside and the matter is remanded to the lower appellate court for decision afresh after finally deciding the application moved by the appellant under Order 41 Rule 27 CPC. Since the matter is pending for a long time, therefore, it is expected that the lower appellate court shall take the final decision in the matter in expeditious manner, but obviously, in accordance with law.

27th MARCH, 2023
'raj'

(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No