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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SAO No.35 of 2015 (O&M)

DATE OF DECISION : 17.01.2023

Ajit Singh @ Ranjit Singh

.....Appellant

versus

Jagraj Singh

.....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ashok Singla, Advocate for the appellant

Mr. S.S. Salar, Advocate for the respondent

..

ALKA SARIN, J. (Oral):

The present appeal has been preferred against the order dated 07.03.2015 whereby the First Appellate Court, without reversing the findings returned by the Trial Court, has remanded the matter for a decision afresh after framing an additional issue.

Learned counsel for the appellant has relied upon a judgment of this Court in **Hasham & Ors. vs. Jhangi Ram [2005 (1) RCR (Civil) 536]** to buttress his argument that without reversing the findings recorded by the Trial Court the matter could not have been remanded.

Per contra, learned counsel for the respondent has stated that the Trial Court had culled out points of law to be decided and one of the points to be decided was whether the suit property was the ancestral joint Hindu family co-parcenary property of Balbir Singh, plaintiff and the defendant. Therefore, the First Appellate Court could not be faulted with for

remanding the matter after framing a specific issue qua the nature of the property.

Heard.

In the present case the First Appellate Court, without reversing the judgment and decree passed by the Trial Court, has in a routine manner remanded the case back to the Trial Court after framing an additional issue. The Trial Court had culled out two material points to be determined one of them being “Whether the suit property is the ancestral Joint Hindu Family coparcenary property of Balbir Singh, plaintiff and defendant?” The Appellate Court while remanding the matter has not even returned a finding that any additional evidence is required. In the absence of such a finding the remand itself cannot be sustained.

Consequently, the present appeal is accepted. The impugned order dated 07.03.2015 is set aside. The matter shall be reconsidered by the First Appellate Court in accordance with law. The parties through their counsel shall appear before the Court concerned on 01.02.2023. Pending applications, if any, also stand disposed off.

17.01.2023
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(ALKA SARIN)
JUDGE

NOTE:

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