

In the High Court of Punjab and Haryana, at Chandigarh**S.A.O. No. 89 of 2015 (O&M)****Date of Decision: 24.07.2023**

Surjit Kaur and Another

... Appellant(s)

Versus

Mohinder Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.Present: Mr. Vivek Suri, Advocate
for the appellant(s).Mr. Arihant Jain, Advocate
for the respondent No.1.**Anil Kshetarpal, J.**

1. This appeal has been preferred against the order passed by the First Appellate Court while remanding the case back to the trial Court for its decision on merits.

2. Originally, the trial Court rejected the plaint at the threshold under Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”) on the question of bar to the jurisdiction of the Civil Court under Section 158 of the Punjab Land Revenue Act, 1887 (hereinafter referred to as “the 1887 Act”). The First Appellate Court, after re-examining the contents of the plaint, has held that the plaint cannot be rejected at the threshold under Order VII Rule 11 CPC, particularly, in view of the allegations made in the plaint.

3. The learned counsel representing the petitioner, after arguing

for some time, prays that the trial Court may be directed to frame a distinct

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issue on the maintainability of the suit in view of the bar to the jurisdiction of the Civil Court under Section 158 of the 1887 Act and the trial Court should decide the same being uninfluenced by the impugned order.

4. The learned counsel representing the respondent has no objection to the aforesaid proposal.

5. Keeping in view the aforesaid facts, the present revision petition is disposed of by directing the trial Court to frame a distinct issue as mandated under Order XIV Rule 1 CPC. The same shall be decided independently without being influenced by the impugned orders.

6. Since the suit was filed in the year 2005, the trial Court is directed to make a sincere endeavour for its expeditious disposal.

(Anil Kshetarpal)
Judge

July 24, 2023
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No