

In the High Court of Punjab and Haryana, at Chandigarh

1. Second Appeal Order No. 37 of 2014 (O&M)

Hakikat Singh and Others

... Appellant(s)

Versus

Parshotam and Others

... Respondent(s)

AND

2. Second Appeal Order No. 38 of 2014 (O&M)

Hakikat Singh and Others

... Appellant(s)

Versus

Girdhari Lal and Others

... Respondent(s)

DATE OF DECISION: 25.08.2023

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. R.S.Manhas, Advocate
for the appellant(s).

Mr. B.R.Mahajan, Senior Advocate
with Mr. Ashish Gupta, Advocate
for the respondent No.1 to 5, 7 to 11 and 14 to 20
(In SAO-37-2014) and for the respondent No.1 to 5
(In SAO-38-2014).

Anil Kshetarpal, J.

1. These two second appeals, filed against the order passed by the First Appellate Court remitting the case back to the trial Court for deciding afresh after following the procedure laid down under Order I Rule 8 of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”), are the

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subject matter of challenge by the defendants. In fact, two connected suits were decided by the trial Court against which two separate appeals were preferred before the First Appellate Court. The First Appellate Court decided both the appeals, though separately, but by the identical orders.

2. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book.

3. The First Appellate Court has noticed that the trial Court has committed a fundamental error in not following the procedure prescribed under Order I Rule 8 CPC i.e. representative suit. The plaintiffs, while filing both the suits, have alleged that they, along with the other co-sharers, named in the list attached, are the rightful owners of the property described in the plaint. The First Appellate Court found that in view of the Order I Rule 8(6) CPC, the judgment passed in a representative suit shall bind the various other persons who have similar interests, but the Court has not followed the procedure prescribed therein.

4. In substance, the dispute is with regard to the entitlement of the amount of compensation deposited on account of the involuntary acquisition of the land which has been described in the revenue record as “*Teeka Shamlat*”.

5. The learned counsel representing the appellants (defendants in the suit) contends that the plaintiffs never filed any application under Section 30 of the Land Acquisition Act, 1894 (hereinafter referred to as “the 1894 Act”). The entitlement of the defendants to receive the compensation has already been decided by the Court of competent jurisdiction i.e. the

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in appeal as well as by the Supreme Court.

6. On the other hand, the learned counsel representing the respondents (plaintiffs) submits that the plaintiffs were not the parties to the aforesaid litigation, therefore, the same is not binding on them.

7. The procedure laid down for deciding the suits filed in a representative capacity is delineated in Order 1 Rule 8 CPC. The First Appellate Court has found that the trial Court did not follow the procedure of giving notices to the public or all the parties who were interested. Hence, the First Appellate Court has considered it appropriate to remand the case back to the trial Court for deciding the suits afresh after following the procedure which is mandatory in nature.

8. Keeping in view the facts of the case, this Court does not find it appropriate to interfere particularly when the learned counsel representing the appellants failed to show from the record that the procedure under Order I Rule 8 CPC was ever followed by the Court of first instance.

9. With the observations made above, both the appeals are dismissed. However, the trial Court is directed to decide both the suits, expeditiously.

10. The miscellaneous application(s) pending, if any, in both the appeals, shall stand disposed of.

(Anil Kshetarpal)
Judge

August 25, 2023
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No