



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

RSA No.2912 of 1994 (O&M)

Date of Order:06.05.2024

**Radhey Shyam and another**

**.Appellants**

**Versus**

**Municipal Committee, Hassanpur and others**

**..Respondents**

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Mr. Vaibhav Sharma, Advocate  
for the appellants.**

**Mr. Adarsh Jain, Advocate  
for the respondents.**

**ANIL KSHETARPAL, J**

1. In this Regular Second Appeal, the defendants assail the correctness of the judgment passed by the First Appellate Court which in turn has reversed the judgment and decree passed by the trial Court.

2. After having heard the learned counsel representing the parties, this court is of the opinion that the matter is required to be remitted back to the First Appellate Court to decide the matter afresh. Hence, the detailed facts are not required to be noticed.

3. The Municipal Committee, Hassanpur, filed a suit for the grant of decree of declaration with consequential relief of permanent injunction claiming that previously the property was part of village Hassanpur which was regulated/managed by the Gram Panchayat. Subsequently, the area of Panchayat came within the municipal limits. The entire dispute is with regard to the land measuring 7 marlas, which is claimed to be a



passage/thoroughfare. The Municipal Committee claims that the consolidation authorities have erred in allotting the defendants 8 kanals and 7 marlas land in lieu of their land measuring 1 bigha and 12 biswas comprised in old khasra no.1160.

4. The defendants, on the other hand, claim that the aforesaid land has been allotted to them by the consolidation authorities.

5. The trial court dismissed the suit, whereas the First Appellate Court has decreed the suit.

6. Upon careful perusal of the judgment, it is evident that the First Appellate Court has not recorded any reason before coming to a conclusion that the defendants in lieu of their land measuring 1 bigha and 12 biswas were entitled to 8 kanals land and not 8 kanals and 7 marlas.

7. The learned counsel representing the appellants has submitted that the order passed by the consolidation authorities became final and therefore, the civil court cannot go into the aforesaid issue.

8. This court is unable to agree with the contentions raised by the learned counsel representing the appellants. The authorities under the East Punjab Holdings (Consolidation and prevention of Fragmentation) Act, 1948, do not have jurisdiction to decide the question of title or ownership. These authorities are required to consolidate the holdings of the owner which may be in separate parcels. They are required to allocate the land of the value which is commensurate to the holdings of the owner before consolidation. Hence, the Civil Court jurisdiction is not excluded.

9. However, as already noticed, the vital question i.e the



entitlement of the defendants to allotment of 8 kanals land and not 8 kanals and 7 marlas is required to be examined by the Civil Court before decreeing the plaintiff's suit because the dispute is with regard to a thoroughfare, therefore, the court could have appointed a Local Commissioner to inspect the site and get the property demarcated.

10. Keeping in view the aforesaid facts, the judgment of the First Appellate Court is set aside while remitting the matter back to the First Appellate Court to decide the matter afresh.

11. The parties through their counsel are directed to appear before the First Appellate Court, on 30.05.2024.

12. All the pending miscellaneous applications, if any, are also disposed of.

May 06, 2024  
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(ANIL KSHETARPAL)  
JUDGE

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