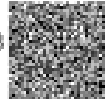


**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

111

2025-PHHC-029208



SAO-4-2023 (O&M)
Date of decision: 01.03.2025

RAMA DEVI ALIAS RAMA GAND

..Appellant

Versus

M/S GPC TECHNOLOGY LTD AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajay Jain, Advocate
for the appellant.

Mr. Ramandeep Singh, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. Defendant No.1 assails the correctness of First Appellate Court's order remitting the matter back to the trial Court for fresh decision after allowing application for permission to lead additional evidence.

2. The plaintiff filed suit for declaration with consequential relief of permanent injunction, which was dismissed by an elaborate judgment passed by the trial Court on 08.09.2016. The plaintiff filed the first appeal. An application for additional evidence was also filed, which was allowed by the First Appellate Court, however, without evaluating and analyzing the reasons recorded by the trial Court, the First Appellate Court has set aside the trial Court's judgment. The Appellate Court has also not recorded reasons for retrial of the case.

3. Order XLI Rule 23A of the Code of Civil Procedure, 1908, provide that the Appellate Court can remand the matter back to the lower Court only after setting aside lower Court's judgment on merits and forming opinion that retrial of the case is necessary.

4. In this case, the First Appellate Court has failed to fulfill afore-noted important ingredients before exercising enabling power to remand.
5. Consequently, the impugned order passed by the First Appellate Court to the extent of remitting the matter back to the lower Court is set aside. It shall be open to the Appellate Court to permit the appellant to record the additional evidence in the Appellate Court or seek report from the trial Court.
6. The parties through their counsel are directed to appear before the First Appellate Court on 25.03.2025.
7. With these observations, the appeal is disposed of.
8. All the pending miscellaneous applications, if any, are also disposed of.

March 01st, 2025
Ayub

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*