

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

113

2025:PHHC:033435



SAO-38-2018 (O&M)
Date of decision: 10.03.2025

KEWAL SINGH & ANR

..Appellants

Versus

RAMESH & ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. C.S. Singhal, Advocate
for the appellants.

Mr. Sandeep Sharma, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. The plaintiff assails the correctness of First Appellate Court's order remitting the matter back to the lower Court for fresh decision. In fact, this is second order passed by the First Appellate Court to remit the matter back to the lower Court. Originally, the plaintiff filed suit for grant of decree of permanent injunction restraining the defendants from interfering into his peaceful possession over plot measuring 2 marla, which was dismissed by the trial Court. In the first round, the trial Court decided the suit on 30.11.2015. The plaintiff filed first appeal, which was allowed on 23.05.2017 while remitting the matter back to the lower Court. In the next round, the trial Court dismissed the suit on 13.07.2017. The plaintiff filed the first appeal against this order. The First Appellate Court has remitted the matter back to the lower Court on the ground that it has been decided by an another Presiding Judge. That is the only reason given by the trial Court to set aside the judgment of the trial Court. Learned counsel for the appellant admits that



in the meantime, the Presiding Judge, who had decided the suit in the first round stood promoted.

2. The marking of cases to the various Presiding Judges of different Courts is a prerogative of Civil Judge (Senior Division). On administrative side, he has the power to allocate the cases while trying to have equal distribution of the work. It is not the observation of the First Appellate Court that the subsequent Presiding Judge had no jurisdiction or competence to decide the case. Hence, the view taken by the First Appellate Court is perverse. It results in failure of justice.

3. Keeping in view the aforesaid fact, the impugned order is set aside. The first appeal is restored to its original number. The First Appellate Court is directed to decide the appeal on merits in accordance with law.

4. With these observations, the appeal is allowed.

5. The parties through their learned counsel are directed to appear before the trial Court on 01.04.2025.

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

March 10th, 2025

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*