



RSA-588-2026 (O&M)

- 1-

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

130

RSA-588-2026 (O&M)
Date of decision: 30.03.2026

PARAMJIT SINGH SINCE DECEASED THROUGH LRS Appellant

Versus

DEVINDER SINGH ...Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Amit Jhanji, Sr. Advocate with
 Ms. Priyanka Kansal, Advocate with
 Mr. Arjun Singh, Advocate for the appellant.

Mr. Jai Vir Yadav, Sr. Advocate with
Mr. Aman Gautam, Advocate,
Mr. Ashutosh Sharma, Advocate and
Mr. Amit Kaith, Advocate for the respondent.

YASHVIR SINGH RATHOR. J.(Oral)

1. This Regular Second Appeal is directed against the judgment and decree dated 23.12.2022 passed by learned Civil Judge (Junior Division), District Chandigarh in CS-1101 of 2016, whereby the suit for declaration and permanent injunction filed by the appellant/plaintiff was dismissed, as well as against the judgment and decree dated 27.11.2025 passed by learned Additional District Judge, Chandigarh, whereby the appeal preferred by the appellant/plaintiff was also dismissed, alongwith the order dated 27.11.2025, rejecting the appellant's application under Order 41 Rule 27 CPC.

2. I have heard learned Senior counsel for the parties and have gone through the material place on the file.

3. Learned Senior counsel for both the parties have appeared and they are *ad idem* that an application for additional evidence Annexure A-10 was moved



RSA-588-2026 (O&M)

- 2-

by the appellant before the First Appellate Court, which has not been decided and matter thus requires to be remanded back to the First Appellate Court for a decision afresh, after deciding the application under Order 41 Rule 27 CPC. A Co-ordinate Bench of this Court in 2025(1) RCR (Civil) 598, ***Didar Singh (since deceased) Vs. Darshan Singh and Others***, has held that if an application under Order 41 Rule 27 CPC is not decided while deciding the main appeal, the matter has to be remanded back to the earlier Court for fresh adjudication without going into the merits of the case, after taking into consideration the application under Order 41 Rule 27 CPC.

4. In view of the admitted position that the application Annexure A-10 has not been decided, while dismissing the appeal, the judgment and decree passed by the First Appellate Court dated 27.11.2025 is set aside and matter is remanded back to the First Appellate Court for a decision afresh on merits and learned Appellate Court shall decide the application Annexure A-10 as well as another application under Order 41 Rule 27 CPC which was also dismissed vide order dated 27.11.2025 afresh, after giving opportunity of hearing to both the parties. Parties shall bear their own costs. Since the appeal is quite old, an effort should be made to decide the same expeditiously.

5. Resultantly, appeal in hand stands disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

30.03.2026
amandeep

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No