

(2013) 11 P&H CK 0187
In the Punjab And Haryana At Chandigarh
Case No : RSA No. 4530 of 2002

Rakesh Singh alias Harkesh Singh

APPELLANT

Vs

Gram Panchayat

RESPONDENT

Date of Decision : 20-11-2013

Acts Referred:

Citation : (2014) 2 PLR 494

Hon'ble Judges : Mahavir Singh Chauhan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mahavir Singh Chauhan, J.—Civil Suit No. 351 dated 4.11.1995 brought by, Rakesh Singh alias Harkesh Singh for permanent injunction to restrain Gram Panchayat of village Sujjowal from cutting and removing some trees standing on the land in dispute was decreed by the court of Additional Civil Judge, (Sr. Divn.) Balachaur vide judgment and decree dated 27.9.1999. Against the judgment and decree dated 27.9.1999, Gram Panchayat, village Sujjowal (defendant in suit), preferred Civil Appeal No. 148 of 2001 which has been allowed by the court of Additional District Judge, Nawashahr vide judgment and decree dated 19.08.2002 and thereby judgment and decree passed by the trial Court have been set aside and reversed. The judgment and decree dated 19.08.2002 are under challenge in this Regular Second Appeal brought by the plaintiff.

2. During the course of hearing, learned counsel for the appellant (plaintiff in suit) has brought to my notice that in order dated 26.11.2002, cross objections filed by the present appellant against the judgment and decree dated 19.08.2002 of the trial Court have not been disposed of by the first appellate Court. This has impelled me to peruse the record of the first appellate Court and perusal thereof, brings out that cross-objections were filed by the plaintiff on 8.2.2000. Reply to the Cross-objections was also filed on 8.9.2000. Record of the first appellate Court reveals that cross objections have not even been registered, disposal thereof apart.

3. Needless to say that cross-objections are in the nature of cross appeal and ought to have been registered and numbered separately, though ought to have been decided along with the main appeal. By not disposing of the cross-objections, learned appellate Court has pushed under the carpet the submissions/contentions raised therein by the plaintiff as regards the judgment and decree of the trial Court.

4. In these circumstances, without commenting on the merits of the case, I set aside the judgment and decree dated 27.9.1999 passed by the first appellate Court and remand the matter to the first appellate Court with a direction to register the cross-objections separately and decide the appeal as well cross-objections afresh, of course after hearing the parties. As the matter has been delayed unnecessarily, it is hoped and expected that the first appellate Court shall hear and dispose of the matter as expeditiously as possible but not later than three months from the date of receipt of copy of this order. Parties are directed to appear before the first appellate Court at 10.00 a.m. on 17.12.2013.