

(1990) 08 SHI CK 0041

In the High Court Of Himachal Pradesh

Case No : Regular Second Appeal No. 8 of 1990

Shri Surinder Singh and Others

APPELLANT

Vs

Smt. Rattni Devi and Others

RESPONDENT

Date of Decision : 27-08-1990

Acts Referred:

Citation : (1991) 1 ShimLC 221

Hon'ble Judges : V.P. Bhatnagar, J

Bench : Single Bench

Advocate : Bhupinder Gupta, for the Appellant; Anand Sharma and Chhabil Dass, for the Respondent

Final Decision : Allowed

Judgement

V.P. Bhatnagar, J.—This Regular Second Appeal can be disposed of at the very threshold since notices, pending admission, already stand served upon the Respondents and the learned Counsel for the Appellants as also that of the contesting Respondent No. 1 (Smt. Ratni Devi) have agreed with the suggestion put-forward by the Court that it is a fit case where the impugned judgment will have to be set aside and the case remanded to the learned District Judge, Chamba, for re-writing the judgment after hearing the parties afresh.

2. The reason for taking re-course to the above line of action is that the learned District Judge has not discussed the oral as also the documentary evidence adduced by the parties at all. The learned first appellate Court on the other hand has confined itself to making some general observations of totally vague nature with respect to the evidence and has concluded by saying : "I have seen the impugned judgment and decree passed by learned trial Judge and I find that not only the oral testimony of both the parties but documentary evidence placed on the record has been appreciated in its right perspective by learned trial Judge and rightly the claim of the Defendants is denied and claim of the Plaintiff has been accepted correctly by elaborating the legal position in this case". It has to be borne in mind that the Court of the District Judge is the final Court on the

point of finding of facts which makes it incumbent for the said Court to go deep into the evidence, oral as well as documentary, discuss it and advance full reasoning for upholding or negating the findings of the learned trial Judge. There are numerous documents which have been received in evidence at the trial but, curiously enough, not a single document has been adverted to by the learned first appellate Court. The discussion on oral evidence is also scanty to an extent that it can be regarded as no discussion at all. It is perhaps on account of the above reason that even Mr. Anand Sharma, learned Counsel for the contesting Respondent I finds himself, and rightly so, unable to support the impugned judgment.

3. For the reasons stated above, this appeal is accepted, the impugned judgment and decree set aside and the case remanded to the court of the learned District Judge, Chamba, with direction to hear the parties afresh and decide the first appeal after taking, into consideration the oral and documentary evidence adduced by the parties and giving detailed reasoning with respect to the finding of facts. The parties are directed to appear before the learned District Judge, Chamba, on September 20, 1990.