



CR No.368 of 2025

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

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CR No.368 of 2025

Date of Decision: 12.05.2025

Sham Lal (since deceased) through his legal heirs

..... **Petitioner**

Versus

Gomti Parshad and others

..... **Respondents****CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. Divanshu Jain, Advocate and
Mr. Abhinav Goel, Advocate
for the petitioner.

Mr. Prateek Sodhi, Advocate
for the respondents.

VIKAS BAHL, J (ORAL)

1. This is a civil revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 16.12.2024 passed by the Additional District Judge, Amritsar, whereby, the application filed by respondents has been allowed and the judgment and decree dated 05.09.2018 passed by the Civil Judge (Jr. Division), Amritsar, has been set aside.

2. Learned counsel for the respondents has submitted that in the present case, a perusal of paragraphs 1 and 2 as well as paragraph 11 of the impugned judgment dated 16.12.2024 passed by the First Appellate Court would show that apart from allowing the application filed by the respondent-appellant, even the judgment and decree dated 05.09.2018 was set aside and the matter was remanded back to the trial Court with a direction to decide the same afresh after allowing the defendants to file the written statement

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subject to payment of costs of Rs.5,000/-. It is submitted that in the said circumstances, it is clear that the order of remand was passed under Order 41 Rule 23-A. As per the provisions of Order 43 Rule 1(u), in case the order is passed under Rule 23-A of Order 41 remandng the case, then appeal would lie from the same and in the present case, the second appeal against the order i.e. SAO would lie.

3. Learned counsel for the petitioner has submitted that in view of the objections taken by the counsel for the respondents, the petitioner be permitted to withdraw the present revision petition with liberty to file the statutory appeal in accordance with law. It is submitted that against the impugned order, the petitioner was pursuing the present remedy and had filed the present petition on 12.01.2025 challenging the order dated 16.12.2024. It is submitted that in the said circumstances, the respondents be not permitted to raise the plea of limitation.

4. Learned counsel for the respondents has fairly submitted that the they would not raise the plea of limitation in case any such appeal is filed within a period of 15 days from today.

5. Keeping in view the abovesaid facts and circumstances, the petitioner is permitted to withdraw the present petition with liberty to file the statutory appeal in accordance with law.

6. Dismissed as withdrawn with the liberty aforesaid.

(VIKAS BAHL)
JUDGE

12.05.2025*D.Bansal*

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