



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

SAO-13-2023 (O&M)

Date of decision : 10.02.2025

Darshan Singh

...Appellant

Vs.

Santokh Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aditya Dassaur, Advocate
for the appellant.

Mr. Sarju Puri, Advocate
for the respondent.

ANIL KSHETARPAL, J. (Oral)

1. The plaintiffs are in second appeal against the First Appellate Court's order directing the trial Court to furnish its report on additional issues within a period of three months.

2. The plaintiff filed a suit for possession of the land measuring 01 kanal 13 marlas, which was decreed on 09.12.2019. In appeal, the First Appellate Court remitted the matter back to the trial Court to decide afresh. In SAO No. 6 of 2023, the order of the First Appellate Court remitting the matter back to the trial Court was set aside while granting liberty to the First Appellate Court to proceed in accordance with law. Now, the First Appellate Court has passed the impugned order on 28.02.2023 in absence of the parties.

3. Learned counsel representing the appellant contends that in fact the additional issues are the same, which were culled out by the First Appellate Court by remitting the matter back to the trial Court. He submits that there is



non application of mind by the First Appellate Court while passing the fresh order.

4. *Per contra*, learned counsel representing the respondent submits that there is no prejudice to the plaintiff.

5. It is evident that the impugned order was passed in absence of learned counsel representing the parties.

6. In such circumstances, the impugned order is set aside while requesting the First Appellate Court to pass a fresh order in accordance with law after granting opportunity of hearing.

7. The parties through their counsel are directed to appear before the First Appellate Court on 10.03.2025.

8. If the First Appellate Court comes to a conclusion that additional issues are not required to be framed, the Court will proceed to decide the case.

9. The appeal is disposed of.

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

10.02.2025

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(ANIL KSHETARPAL)
JUDGE

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