

RSA No.8 of 2015

30.09.2015 Present: Mr. Karan Singh Kanwar, Advocate for the appellant.
Mr. Rohit Chauhan, Advocate vice counsel for the respondent.

Heard. Admitted on the following substantial question of law:

1. Whether on account of misreading, misappreciation and misconstruction of the law and facts as well as the oral and documentary evidence available on record, the judgment and decree under challenge in the main appeal being perverse and vitiated is not legally sustainable?
2. Whether learned District Judge has erred in not appreciating that when objection was taken by the defendants of non-joinder of necessary parties, the plaintiff, at that time instead of impleading the other co-sharers contested the objection and invited a finding against him on the said issue. Therefore, now the plaintiff cannot be permitted to fill up the lacuna and implead the necessary parties in the suit?

CMP No.309 of 2015

Heard. The main appeal stands admitted for final hearing, disposal whereof is likely to take slightly longer time. Learned lower appellate Court vide impugned judgment and decree has remanded the suit to the trial Court for fresh disposal after arraying other co-sharers as party in the suit and amendment of the pleadings.

Therefore, in view of the admission of the appeal, it is ordered that the execution of the judgment and decree under challenge shall remain stayed during the pendency of the appeal. The application is accordingly allowed and stands disposed of.

September 30, 2015(ss)

(Dharam Chand Chaudhary), J.