
Mohd. Sahid and Others Vs Smt. Ramjano

Civil Miscellaneous No. 900 of 2006

Court: Rajasthan High Court

Date of Decision: Aug. 1, 2007

Hon'ble Judges: N.P. Gupta, J

Bench: Single Bench

Advocate: Rajesh Choudhary for Mr. Suresh Shrimali, for the Appellant; S. Surana, for the Respondent

Final Decision: Allowed

Judgement

N.P. Gupta, J.

The matter comes up for consideration of stay. However, apart from the fact that while ordering record to be requisitioned

vide order dt. 19.02.2007, the matter was ordered to be listed for final disposal after receipt of the record.

2. By the impugned order, the learned lower Appellate Court has set aside the decree of the learned trial court, and has remanded the matter to

the learned trial court with a direction to hear the matter again, and to decide according to law in view of the observation made in the judgment.

3. A perusal of the judgment shows that the observations made is that documents Ex. 1 and 2 are the certified copies of the judgments which have

not been taken into account by the learned trial court though the documents have direct bearing on issue No. 1. Request was made to the learned

lower Appellate Court by both the learned counsel that the Appellate Court itself should consider the documents Ex.1 and 2, and decide the

matter itself. Notwithstanding this the learned lower Appellate Court declined to consider the matter itself, and has remanded the matter.

4. In my view, in view of the provisions of 0.41 Rule 24, and in view of the joint submission made by the learned counsel for both the parties

before the learned lower Appellate Court to itself decide the matter, there was no justification to remand the matter to the learned trial court.

5. Accordingly, the appeal is allowed. The impugned order is set aside, and the matter be sent back to the learned lower Appellate Court with a

direction to restore the appeal to its original number, and decide itself, on merits in accordance with law, and expeditiously. The parties are

directed to appear before the learned lower Appellate Court on 10.09.2007. The record of the learned courts below be returned forthwith.