

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

**S.A.O. No. 32 of 2002
Date of decision : 31.1.2007**

Jarnail Singh

.....Appellant.

Versus

Shri Gurudwara Sahab Hamjapur & Ors.

.....Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.Sudhir Mittal, Advocate
for the appellant.

Mr.Jitender Sharma, Advocate
for respondent No.1.

VINOD K. SHARMA,J.(ORAL)

The present appeal has been filed against the order dated 28.2.2002, passed by the learned Addl. District Judge, Fatehabad vide which the learned appellate Court has been pleased to frame the following additional issue :-

“Whether Darshan Singh defendant No.1 had appended his signatures on the writing Ex.P1 ? If so, to what effect ?OPP”

After framing the additional issue, without giving any reasons the learned lower appellate Court has set aside the judgment and decree passed by the learned trial Court and remanded the case back for decision afresh. This procedure was not warranted by law. Even if the issue as mentioned above was required to be framed then also the Court at best could have called for report on the said issue and thereafter dispose of the appeal on merits. However, in this case the document Ex.P1 was already on record and its

evidentiary value was to be looked into on merit. There was no necessity to frame an additional issue as has been done by the learned lower appellate Court below as the effect of Exhibit P-1 can be looked into while deciding issue No.1.

Accordingly, this appeal is allowed and the judgment and decree passed by the learned lower appellate Court is set aside. The learned lower appellate Court is directed to dispose of the appeal on merits in accordance with law.

31.1.2007
'sp'

(VINOD K. SHARMA)
JUDGE