

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**R.S.A. No. 413/2004 along with RSA  
No. 414/2004**

**Date of decision: 31<sup>st</sup> October, 2018**

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**RSA No. 413/2004**

Prem Sukh ...Appellant

Versus

Smt. Rami Devi and ors. ....Respondents

**RSA No. 414/2004**

Prem Sukh ...Appellant

Versus

Smt. Rami Devi and ors. ....Respondents

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**Coram**

**The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.**

*Whether approved for reporting ?<sup>1</sup> No*

For the appellant(s): Mr. Sanjeev Kuthiala, Advocate.

For the respondents: Mr. G.R. Palsra, Advocate, for  
respondent No.2 in both the  
appeals.

Mr. Vinod Thakur & Mr. Sudhir  
Thakur, Addl.A.Gs. for the  
respondent-State.

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<sup>1</sup> *Whether reporters of Local Papers may be allowed to see the Judgment ?Yes*

**Tarlok Singh Chauhan, Judge (oral)**

Since common questions of law and facts arise for consideration in these appeals, the same were taken up together for hearing and are being disposed of by a common judgment.

2           It is conceded by all the parties that the findings recorded by the learned trial court as also by the learned first appellate court are self-contradictory and confusing and therefore, they have jointly prayed that the matter be remanded to the learned trial court for decision afresh on the basis of the pleadings and material that is already available on record. The prayer is accepted.

3           Accordingly, both the appeals are allowed by setting aside the impugned judgments and decrees passed by both the learned courts below with a direction to the learned trial court to decide the civil suit(s) afresh on the basis of pleadings and material that is already available on record. Further, the learned trial court is directed to deal with each of the issues separately in each of the civil suit by delinking both the civil suits. I am conscious that the evidence has been recorded only in one of the civil suit, therefore, it is

clarified that the said evidence shall be read in evidence and shall form part of the record of another civil suit.

4           The parties through their respective counsel to appear before the learned trial court on **5.12.2018**.

5           Pending application(s), if any also stands disposed of. The parties are left to bear their own costs.

**31<sup>st</sup> October, 2018**  
*(pankaj)*

**(Tarlok Singh Chauhan)**  
**Judge**