

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

**RSA No.4149 of 2011(O&M)
Date of Decision: 15.05.2015**

Bal Krishan & ors.

... Appellants

Versus

State of Haryana & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sandeep K. Sharma, Advocate,
for the appellant.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

This is plaintiffs' second appeal arising from a suit for damages brought by them in the civil court at Panchkula.

If the plaintiffs' complaint was that the Government planted trees on the suit land with the consent of the previous owner then the prayer in the suit was not for removal of trees but for damages caused by loss of use of land had they sown crops. The plaintiffs' suit for damages has failed in both the Courts below and the suit stands dismissed. No evidence was brought on record of the description of the land beneath the trees nor was there any evidence produced on record to establish right, title or interest in the disputed land, which may have adjoined the land of the plaintiffs. A claim for damages, liquidated or unliquidated, has to be established by the probative evidence and clear proof of damages which both the Courts below have not found present in the instant case. The plaintiffs failed to lead evidence to match the description of the disputed property under tree plantation with the description of land in their sale deed to show that there

was encroachment over their private land by the State functionaries. The suit was not for mandatory injunction for removal of trees or a declaration that the trees belonged to the plaintiffs but was limited to a claim for money by way of compensatory damages for use and occupation of the suit property payable by the State, which claim has been rejected. I have no reason to differ with the concurrent findings of fact recorded by both the Courts below to disturb the findings recorded by the Courts *a quo* which are legally sound and in order when arrived at after appreciating the evidence on file.

In the case status obtaining on file and in the absence of proof of facts entitling the plaintiffs to a decree, this appeal has no merit and no question of law, much less a substantial one, arises in this appeal warranting interference on the second appeal side. The appeal is found bereft of merit and consequently the same is ordered to be dismissed. No orders are required to be passed on the miscellaneous applications praying for condoning the delay in filing and refiling the appeal as the prayers therein stand merged in the final order with the dismissal of the main appeal. Suit to stand dismissed and consigned to the record room.

15.05.2015
monika

(RAJIV NARAIN RAINA)
JUDGE