

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

**Regular Second Appeal No.3042 of 2014 (O&M)
Date of Decision: December 01, 2015.**

Harnek Singh

.....APPELLANT.

VERSUS

Sadhu Singh(now deceased) through his LR and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Malkeet Singh, Advocate
for the appellant (s).

SURINDER GUPTA, J.

This regular second appeal has been filed against the judgment and decree passed by Additional Civil Judge (Senior Division), Samrala decreeing the suit filed by Sadhu Singh Dard (since deceased) and his son Kamaljit (Kanwalit) Singh claiming damages for the loss of reputation, integrity of plaintiffs as well as their family.

2. The case of the plaintiff, in brief, is that Sadhu Singh (since deceased) was a freedom fighter, who had participated in the freedom movement and suffered imprisonment a number of times during British rule over India. He was honoured as Freedom Fighter by the Central and State Governments. His name was entered at serial No.62 in the list of Freedom Fighters of Ludhiana District and he was presented a '*Tamar Patra*' on 15.08.1972 by the then Prime Minister of India. He was also getting the

pension and other facilities allowed to the freedom fighters by the Central and State Governments. Plaintiff No.2 is the son of plaintiff No.1 and their family hold high respect in the village, locality, State, whole of the country and abroad. The residents of that area feel pride that son of their village had been held in high esteem by the Central and State Governments.

3. Defendants No.1 and 2 with intention to defame the plaintiffs and their family members, made baseless complaint/application to Chief Director, Vigilance causing imputations and aspersions on the integrity and reputation of plaintiff No.1, which was supported by affidavit, attested by defendant No.3 levelling the allegations that Sadhu Singh plaintiff No.1 had never participated in any freedom movement or had undergone any imprisonment. He was termed as fraudster, who was getting pension and other facilities from the Government claiming himself to be a freedom fighter.

4. The plaintiffs alleged that the complaint made by defendants No.1 and 2 created excitement in the locality and adjoining area. So many persons were present in the open Court when Sub Divisional Magistrate, Samrala held the above noted enquiry. The people of the locality, relatives and friends and people at large started doubting the integrity and reputation of the plaintiffs and their family members owing to complaint moved by the defendants to harm their reputation. Plaintiff No.1 suffered great mental agony and shock in view of allegations against his self-respect, integrity and reputation. The damages to the tune of ₹6 lacs was claimed by the plaintiffs.

5. The defendants-appellants admitted the factum of filing the application but again assailed the averments of plaintiff No.1 that he was

freedom fighter or ever had taken part in the freedom movement of India or suffered any imprisonment from 1939 to 1945. They attributed their source of knowledge that plaintiff No.1 had never taken part in any freedom movement to freedom fighters of the area and alleged that they have bonafidely moved the above referred application without any malice or intention to defame plaintiffs or their family.

6. Learned Additional Civil Judge (Senior Division), Samrala observed that conduct of defendants No.1 and 2 in moving the application (Ex.P3) patently and provenly shows that they had no reason to even presume that plaintiff No.1 was falsely proclaiming to be freedom fighter. Instead of verifying their information from the Government Department, they jumped to the conclusion that plaintiff No.1 was a fraudster drawing freedom fighter pension and other benefits wrongly. It also found that application (Ex.P3) filed by defendants No.1 and 2 is full of imputations of fraud, cheating, falsehood, which they had no reason to comprehend as prudent men. These imputations were malicious, false and untruthful, unscrupulous having been levelled to harm the reputation of plaintiff No.1 and his family. Taking all the above facts into account, it allowed damages of ₹2 lacs each payable by defendants No.1 and 2. The first Appellate Court affirmed the findings of learned lower Court.

7. Learned counsel for the appellants-defendants has argued that plaintiff No.1 Sadhu Singh, against whom the allegations were levelled in the complaint/application (Ex.P3) by the appellants, had since died, as such, after his death, the cause of action to file the suit does not survive. On this

short ground, he sought dismissal of the suit.

8. The above contention of learned counsel for the appellants has no merits; firstly, after the death of plaintiff No.1 Sadhu Singh, cause of action survived to his legal heirs; secondly the case of the plaintiffs is that their entire family was defamed because of the allegations levelled against plaintiff No.1 Sadhu Singh. Kamaljit (Kanwaljit) Singh son of Sadhu Singh has joined as plaintiff. The first Appellate Court has specifically held that the imputations levelled by the appellants-defendants had harmed the esteem of family of Sadhu Singh. As per Order 22 Rule 1 of Code of Civil Procedure a suit does not abate on the death of plaintiff or defendant if right to sue survives. In this case also, the right to to sue survived to the legal heirs of Sadhu Singh.

9. Learned counsel for the appellants has argued that appellants had no intention to defame Sadhu Singh or his family. They had moved the application only in public interest.

10. The above contention of learned counsel for the appellants is also not tenable. In case, the appellants had only intention to intimate the authorities regarding the information that Sadhu Singh was not a freedom fighter, they would not have used the language that he is a fraudster and imputed the other allegations. The open enquiry in the matter had defamed Sadhu Singh and his family, whom the Government has honoured, being a freedom fighter and for going to jail during struggle for freedom.

11. Learned counsel for the appellants has further argued that amount of compensation has been allowed in lump sum without making any calculation. The Courts below have not tried to ascertain as to what was the

assess the amount of compensation.

12. This argument is also not tenable because the Courts below have allowed the compensation of ₹4 lacs payable by each appellant-defendant in equal shares. The damage to the reputation of a family particularly, of a freedom fighter is difficult to be calculated in terms of money. Keeping in view the status of plaintiffs and their family, the Courts below have quantified the amount of compensation as ₹4 lacs, which in no manner can be termed as on higher side.

13. In view of my above discussion, I find no legal or factual infirmity in the judgments passed by the Courts below, calling for any interference.

14. No substantial question of law requiring determination arises in this appeal, which has no merits.

15. Dismissed.

December 01, 2015.

Sachin M.

**(SURINDER GUPTA)
JUDGE**