

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

**RSA No. 4791 of 2012 (O&M)
Date of decision: 30.03.2016**

Estate Manager Housing Board, Rewari

...Appellant(s)

Versus

Sub Divisional Officer, DHBVNL and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Durgesh Aggarwal, Advocate,
for the appellant(s).

Mr. J.P. Sharma, Advocate,
for the respondents No. 4 to 6.

JITENDRA CHAUHAN, J.

This regular second appeal has been filed by the defendant No. 1 against the judgment and decree dated 26.05.2012, passed by the District Judge, Rewari vide which the appeal filed by defendants No. 3, 4 and 7 was dismissed. However, the liability of the defendants inter se was modified and the defendant No. 1/appellant and defendants No.2, 5, 6 and 8 were directed to make the payment of compensation to the plaintiffs in equal shares.

In brief, plaintiffs Naresh Kumar and others filed civil suit for recovery of Rs. 7 lac with interest as damages. It was

pleaded by the plaintiffs that House No. 2175-P, Housing Board Sector-4, Rewari was allotted to plaintiff no. 1. An amount of Rs. 36,422/- was paid as an additional amount for the plot being corner one. The main electricity line of high voltage of 11,000 K.V. was touching the roof of the house of the plaintiffs. The plaintiffs made representations to the defendants for removal of transformer adjacent to his house but no action was taken. As the high voltage of 11,000 K.V was touching the roof, the wife of plaintiff no. 1 and mother of plaintiffs No. 2 and 3 came in contact with the heavy voltage cables and died due to electrocution. It was further pleaded by the plaintiff that the wife of the plaintiff no. 1 died due to the negligence of the defendants, therefore, the defendants were liable to make payment of Rs. 7 lacs to the plaintiffs as damages.

On notice, defendant no. 1/appellant i.e. Housing Board, Rewari filed written statement pleading that it had purchased the land from HUDA and constructed the plots but the removal of the transformer and electricity lines was under the supervision and control of HUDA and defendant No. 1 had no concern with the electricity line, if any, touching the house of the plaintiffs.

Defendants No. 2 and 5 to 8 i.e. HUDA and DHBVNL i.e. Dakshin Haryana Bijli Vitaran Nigam Ltd filed separate statement pleading that the defendant No. 2 i.e. HUDA allotted the

land to the Housing Board, Rewari thereafter, the Housing Board constructed the houses, road, sewerage and electricity wire and the same were allotted to the owners. The HUDA had no concern with the electricity lines and transformer etc. The electricity line was installed by the Electricity Department. The HUDA had no right or title over the plots. At the time of the sanction of the site plan, the provision of single storey was made and thereafter, the houses were allotted to the owners. At that time, the electricity wire was 20 ft. in height as the roof of the house was about 10/11 ft. in height.

The defendants No. 3 and 4 i.e. DHBVNL filed separate written statement. It was pleaded by them that the electricity wires/lines were installed by defendant no. 1 i.e Housing Board and the transformer was also owned by the Housing Board. The defendants no. 3 and 4 i.e the Electricity Department had no right over the transformer and the wire installation. The electricity wire of High Tension was about 20/25' in height but the plaintiffs constructed three storey building without permission. The construction of house was illegal. The Electricity Department made the estimate for shifting the line, therefore, memo No. 6174 dated 26.12.2007 was issued and the plaintiffs were directed to deposit the amount of Rs. 1,05,960/-with the department for shifting the line and a copy of the estimate was sent to the Housing Board but

the amount was not deposited by the plaintiffs.

After appraisal of evidence, the learned trial Court decreed the suit and awarded a sum of Rs. 2 lacs as damages to the plaintiffs along with interest @ 6% per annum. The liability to make payment of compensation was fastened upon the DHBVNL.

The DHBVNL filed appeal before the District Judge, Rewari vide judgment and decree dated 26.05.2012, the lower Appellate Court dismissed the appeal filed by DHBVNL. However, the liability to make payment of compensation was modified and the Housing Board/appellant was also directed to share the amount of compensation to be paid to the plaintiffs. Thus, the present regular second appeal had been filed by the Housing Board/defendants No. 1 against the judgment and decree dated 26.05.2012.

On behalf of the appellants, it is contended that the appellant i.e. Housing Board, Haryana is not at fault. The houses were constructed by the Housing Board but the electricity lines and transformers etc. had been laid and provided by the HUDA and are being maintained by DHBVNL. Each and every communication of the plaintiffs had been replied to properly, well within time and the plaintiffs were advised to move the HUDA and DHBVNL authorities to remove the electricity lines and transformers. It is further, contended that the plaintiffs themselves were at fault as

they had raised the construction in violation of the HUDA Rules.

Indisputably, the house in question was allotted to the plaintiffs by the Housing Board, Rewari after having purchased the land from HUDA. The development work was carried out by the Housing Department. The electricity lines and the transformers etc. were laid by DHBVNL. On construction of house being raised up to three storey, the plaintiffs felt that their lives were insecure as 11,000 voltage High Tension wires existed in front of their house. The plaintiffs made several representations but none of the three departments viz. Housing Board, DHBVNL and the HUDA paid any heed to the requests made by the plaintiffs. Letters Ex. PW4/5, PW4/6, PW4/9 and PW4/15 were exchanged amongst all the three departments but no action was taken by any of the departments. The apprehension of the plaintiffs came true on 24.05.2007 when Smt. Koshlya Devi, wife of plaintiff No.1, died due to electrocution. The death certificate Ex. PW4/16 and the Post-mortem report Ex. PA prove that the cause of death was electric shock. There is a finding of fact recorded by the lower Appellate Court that the Housing Board also did not respond to the requests made by the plaintiffs. The construction raised by the plaintiffs was never objected to by the defendant No. 1. Therefore, this Court does not find any infirmity in the judgment passed by the lower Appellate Court vide which it directed the defendant No.

1/appellant to share the amount of compensation in equal proportion with other defendants.

No substantial question of law arises for consideration of this Court.

Consequently, the present regular second appeal is dismissed. No costs.

30.03.2016
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(JITENDRA CHAUHAN)
JUDGE