

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

R.S.A. No.3149 of 2013 (O&M)

Date of decision: 31.03.2016

Shamsher Singh and others

..Appellants

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Rajender Helwa, Advocate for the appellants.

Jitendra Chauhan, J.

This regular second appeal is directed against the judgment and decree dated 07.01.2013, passed by the learned Additional District Judge, Moga, (for short, the 'first Appellate Court') whereby, the appeal filed by the appellants, against the judgment and decree dated 05.09.2012, passed by the learned Additional Civil Judge, Sr. Divn., Moga, (for short, the 'trial Court'), has been dismissed.

It is contended that the learned Courts below have not appreciated the fact that due to the construction of residential houses there is no space/area left around the land of the appellants. The appellants used to approach their land through the passage ABCD as shown in red colour in the site plan and except that they do not have any other passage to approach their land. Lastly, he refers to

statement of DW1, Jasbir Singh, wherein DW1 has also admitted that the said passage is the only passage for the appellants to approach their land. Therefore, the judgments and decrees passed by the learned Courts below are liable to be set aside.

I have heard the learned counsel for the appellants and carefully perused the entire record.

From the perusal of cross-examination of PW1, Lambardar Jagjit Singh, it emerges that the disputed passage ABCD was acquired by the respondent Department in the year 1973-74, this fact is not being disputed by the appellants. The report of the Local Commissioner, Ex.PY suggests that the wall AB is old one and the existence of the wall is on the spot surrounding acquired area belonging to the respondents. In these circumstances, it reveals that the disputed passage was acquired by the colonization department of Provisional Government way back in the year 1973 and the acquisition proceedings had never been challenged or opposed by their owners. Further, the appellants have failed to show that they had not received any compensation for the acquisition of the land. Therefore, this Court feels that the learned Courts below have rightly passed the impugned judgments and decrees.

On consideration, this Court finds that the contentions only relate to the appreciation of evidence. No evidence is shown to have been ignored from consideration, nor there is any misreading of

evidence. These are pure findings of fact. No question of law much less substantial question of law arises in the present appeal. Hence, no interference is called for.

Dismissed in limine.

31.03.2016

ashok

(JITENDRA CHAUHAN)
JUDGE