

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

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**RSA 1943 of 2015 (O&M)
Date of decision:01.12.2016**

Executive Officer Nagar Council Barnala and another

.... Appellants

Versus

Saroj Bala and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Sandeep Khunger, Advocate for the appellants.

P.B. Bajanthri, J. (Oral)

CM No. 13985-C- 2016

This is an application for preponement of the hearing of the present appeal. Heard. In view of the reasons mentioned in the application same is allowed.

Matter is taken on Board today itself.

Main case.

The appellants have questioned the validity of the appellate court order dated 19.11.2014. One Mr. Gian Chand Deceased son of Telu Ram resident of Gali No.1, Sekha Road, Barnala was working with the Punjab State Electricity Board. On 31.01.2005 deceased Gian Chand along with Ranbir Singh and others were going to their house after discharging their duties. When they were reached Patel Nagar near the residence of Proprietor Zimidara Tractor, Barnala at about 4.40 pm there were two stray bulls were fighting with each other. Arising out of the said fighting between the stray bulls, deceased Gian Singh trapped and he had received

multiple injuries. When, he was removed to the hospital DMC, Ludhiana, he died. Due to negligence of the appellant-Municipal Council. Stray bulls were allowed to roam in the town. On behalf of the Gian Chand, legal heirs issued legal notice seeking for compensation of Rs.10 Lacs. Thereafter, they have resorted to the legal proceedings by filing a suit before the trial Court. On 27.07.2012, the trial court decreed the suit with cost for recovery of Rs.10 Lacs along with interest @ 12% per annum.

2. The appellants aggrieved by the decree dated 27.07.2012 passed by the trial court preferred an appeal before the appellate court. The appellate court on 19.11.2014 allowed, the civil appeal No. 131 of 2012 partly while modifying the compensation amount of Rs.10 lacs to that of Rs.4 Lacs along with pendente lite interest @ 9% per annum. Still aggrieved by the order of the appellate court dated 19.11.2014, the present appeal has been presented by the appellants.

3. Learned counsel for the appellants submitted that suit is required to be rejected for want of impleading necessary party that the respondents have not impleaded Nagar Council, Barnala as a Local body. On the other hand, Executive Officer and President of Nagar Council, Barnala have been impleaded. Therefore, in the absence of impleading local body-Nagar Council Barnala, suit is not maintainable. Further it is contended that there is no evidence that bulls were stray bulls and not belonging to a particular private person. The same has not been examined by the trial court as well as appellate court.

4. Heard learned counsel for the parties.

5. Preliminary issue relating to non-impleading proper and necessary party that local body Nagar Council, Barnala has not been

impleaded whereas, Executive Officer and President of Nagar Council, Barnala have been impleaded is too technical. The respondents have not impleaded Executive Officer and President by name so as to make a distinction that local body has not been impleaded. Both the Executive Officer and President would be working on behalf of Nagar Council, Barnala i.e. Local body or local authority. Therefore, the preliminary issue relating to non-impleading proper and necessary party namely Nagar Council, Barnala as a local body is hereby rejected.

6. Insofar as identifying the stray bulls point is concerned when the deceased Gian Chand had multiple injuries, he himself nor his colleagues who were with him, were not in a position to identify the bull for the reasons that they are taking care of Gian Chand who had multiple injuries. Therefore, question of identifying whether it is stray bull or owner of the bulls do not arise. Therefore, appellants' contention that in the absence of identification of stray bulls or particular person's bull, is not tenable. The appellants have not made out a case so as to interfere with the order dated 19.11.2014 passed by the appellate court.

7. Appeal stands dismissed.

01.12.2016

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No