

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.4871 of 2015

Date of decision:05.01.2016

Balwan

.....Appellant(s)

Versus

Rekha and others

.....Respondent(s)

CORAM:- HON'BLE MR.JUSTICE DARSHAN SINGH

1. Whether reporters of local newspapers may be allowed to see judgment? Yes
2. To be referred to reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

* * *

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

Darshan Singh, J.

1. This regular second appeal has been directed against the judgment and decree dated 10.3.2015 passed by the learned Additional District Judge, Rohtak whereby the appeal preferred by the appellant against the judgment and decree dated 22.8.2013 passed by the learned Civil Judge (Junior Division) Rohtak has been dismissed.

2. For convenience sake, the reference to the parties is being made as per the status in the civil suit.

3. The detailed facts of the case are already recapitulated in the judgments passed by the learned Courts below. However, the necessary facts for the disposal of the present appeal are that the plaintiff belongs to a respectable Brahmin family having good

reputation in the society. Defendant No.1 is his real niece and is married to defendant No.2 at village Marodhi. Mother of defendant No.1 died when she was of the age of 2 and 2 ½ years. Her father got remarried. She was looked after and brought up by the plaintiff and his wife. They also performed her marriage with defendant No.2 and also performed other customary obligations like *Chhuchhak* etc. There was piece of land in the name of Lachhmi which was inherited by defendant No.1 after the death of said Lachhmi being her sole legal heir. Defendant No.1 decided to sell her 101/539 share measuring 5 kanals 1 marla in the total land bearing 27 kanals situated at Village Assaudha Tehsil Bahadurgarh Distt. Jhajjar in favour of Smt. Kavita wife of Jitender Kumar resident of Bahadurgarh and executed and got registered the sale deed No.5447 dated 26.9.2008 at Bahadurgarh. The plaintiff accompanied defendants No.1 and 2 to Bahadurgarh on their request and thumb marked the sale deed. Defendant No.1 sold her land by her own free will and had got executed the agreement to sell. She executed and got registered the sale deed after receiving the entire sale consideration. The plaintiff had no concern with the said sale price. The defendants started blaming the plaintiff that he had instigated defendant No.1 to sell her land at a low price and had kept the amount more than the consideration allegedly shown in the sale deed. On 19.4.2009 at 12 O'clock in the noon, defendants No.2 to 4 along with Attar Singh came to the house of the plaintiff armed with weapons and gave beatings to him. They also spread the rumour in village Bohar and in their relations about the false

allegations that plaintiff has kept the amount of sale consideration illegally that has caused defamation of the plaintiff in the eyes of his family, relatives and society without any reason. Defendant No.1 also made the false complaint to Police Station City, Bahadurgarh against the plaintiff with respect to the misappropriation of the amount of sale consideration at the instigation of defendants No.2 to 4 only to damage the prestige of the plaintiff. The plaintiff and his brother Chand Singh were called to Police Station Bahadurgarh many a times and were threatened to pay the amount as demanded by the plaintiff, otherwise they will be involved in false cases. It was further pleaded that the defendants have caused the act of defamation intentionally without any cogent reason and have made the false report in the police. The defendants were requested to withdraw the allegations and apologize but they did not pay any heed. Hence, the suit for claiming the damages.

4. The suit was contested by the defendants on the grounds, inter alia, that defendant No.1 never wanted to sell her land, the alleged sale deed is the result of fraud played by the plaintiff. It was also denied that defendant No.1 had sold her land by her own free will. They also denied that they had spread any false rumour in the village and had caused the act of defamation. It was also denied that defendant No.1 was looked after, brought up and married by the plaintiff. With these pleas, they pleaded for dismissal of the suit with special costs.

5. The Court of first instance on the basis of pleadings of the parties framed the following issues:

“1. Whether the plaintiff is entitled to a decree for recovery of damages directing the defendants to pay the requisite amount of damages caused by defamation of the plaintiff as prayed for? OPP

2. Whether the present suit is not maintainable in the present form? OPD

3. Whether the plaintiff has no cause of action and locus standi to file the present suit?OPD

4. Whether the plaintiff has not come to the court with clean hands and has suppressed the material facts from the court? OPD

5. Whether the suit of the plaintiff is false and based on frivolous grounds? OPD

6. Whether the Hon'ble Court has got no jurisdiction to entertain and try the present suit? OPD

7. Relief.”

6. The trial Court on appreciating the evidence on record dismissed the suit filed by the plaintiff-appellant vide judgment and decree dated 22.8.2013

7. Feeling aggrieved with the aforesaid judgment and decree of the trial Court, plaintiff-appellant filed an appeal which was also dismissed by the First Appellate Court vide impugned judgment and decree dated 10.3.2015. Hence, this Regular Second Appeal.

8. I have heard Mr.Sandeep K. Sharma, Advocate, learned counsel for the appellant and have perused the paper book carefully.

9. Initiating the arguments, learned counsel for the appellant contended that the following substantial questions of law arise for consideration in the present appeal:

“a. Whether the impugned judgments and decrees passed by the Ld. Courts below are totally perverse to the law and facts of the case and also result of misreading of oral as well as documentary evidence available on record?

b. Whether the finding of the Ld. Courts below on issue no.1 is result of misreading of oral as well as documentary evidence available on record and wrong appreciation law regarding defamation?”

10. Learned counsel for the appellant further contended that defendant No.1 has executed the sale deed dated 26.9.2008 in favour of Smt. Kavita out of her own free will and had received the entire sale consideration. The defendants spread the false rumour that the plaintiff has misappropriated the sale price on the ground that the actual sale price was much higher than mentioned in the sale deed. They also lodged the false report to the police. These actions of the defendants have resulted in lowering down the prestige of the plaintiff in the eyes of relatives and society which resulted in his defamation. Learned counsel for the appellant contended that the appellant is entitled for suitable amount of damages. The learned Courts below have not properly appreciated the evidence.

11. I have duly considered the aforesaid contentions.

12. There is concurrent findings of fact by the learned Courts below. The law is well settled that the scope for interference with the concurrent findings of fact while exercising the jurisdiction under

Section 100 CPC is very limited. Such interference is only justified

when the trial Court or the First Appellate Court misdirected themselves in appreciating the questions of law. In the absence of any substantial question of law, the concurrent findings of facts cannot be interfered with in the second appeal. The High Court should not interfere with the concurrent findings of fact in routine and casual manner by substituting its subjective satisfaction in place of lower courts. In the second appeal, the High Court is not entitled to reappreciate the evidence unless it is found that the findings of the Courts below are perverse and not based on evidence available on record.

13. In the instant case, learned counsel for the appellant has not been able to point out as to how the judgments and decrees passed by the Courts below are perverse and how the findings of the Courts below are the result of misreading of the evidence. The plea of the plaintiff-appellant is that he has been defamed and his prestige has been lowered down in the society by the defendants levelling allegations that he has misappropriated the part of the sale price of the land sold by defendant No.1 and the defendants have lodged the false criminal complaint against him with the police. Learned Courts below have concurrently held that in the absence of any witness from the society, it is not established that the plaintiff has been defamed in the society and his prestige has been lowered down in the eyes of the members of the society. The plaintiff has only examined PW-2-Chand Singh, who is his brother. No other witness has been examined to establish that the defendants have levelled the false allegations with intention to defame and lower

down the prestige of the plaintiff in the eyes of the members of the society.

14. This fact is not disputed that the complaint moved to Bahadurgarh police is still pending. No finding so far has been given by the police authorities that the said complaint moved by the defendants was false. It is settled principle of law that moving of a complaint by an aggrieved person to the law enforcing agency is not an illegal act and cannot be termed as a ground to claim the damages.

15. The findings arrived at by the learned Courts below are based on evidence which cannot be stated to be the result of misreading of the evidence. There is no perversity in the findings of the Courts below. Thus, I do not find any illegality or perversity in the impugned judgments and decrees passed by the learned Courts below. No question of law much less substantial question of law, as claimed by the appellant arises in the present appeal.

16. Consequently, the present appeal has no merits and the same is hereby dismissed in limine.

17. No order as to costs.

January 05, 2016
ps

(DARSHAN SINGH)
JUDGE