

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 3567 of 2014 (O&M)

Date of Decision: 15.02.2016

Baltej Singh

... Appellant(s)

Versus

Municipal Corporation (previously Council), Bathinda

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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

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

Shekher Dhawan, J.

Present regular second appeal is against the concurrent findings of facts of both the Courts below.

For the sake of convenience, parties are being referred to as per their status before the Court of first instance.

Relevant facts of the case that plaintiff/appellant had filed suit for possession and permanent injunction on the ground that plaintiff was owner of the suit land and defendant took the plea that construction of 100 feet wide road was raised and same was constructed in scheme No. 3 Part II, which was sanctioned by the

Government vide letter dated 8.9.1983 after completion of the formalities and since then road is in existence. On these facts, the Court of first instance settled the issues and the parties were put to trial. However, after appreciating the evidence, the Court of first instance dismissed the suit on the ground that appropriate remedy available with the plaintiff is to claim the compensation, if so far he has not been paid. First appeal was also dismissed on the same ground by learned Additional District Judge, Bathinda and present appeal before this Court.

Learned counsel for the appellant submitted that as most of the facts are not disputed that road has been constructed on the land belonging to the plaintiff but no compensation has been paid to him. For that purpose, he had earlier filed a writ petition bearing No. Civil Writ Petition No. 1616 of 1986 and the same was disposed of with the following directions:

“In view of the above, the writ petition is disposed of with the direction that the property of the petitioner shall not be acquired by Municipal Committee, Bathinda or the State Government without following the procedure prescribed under the Land Acquisition Act, 1894.”

By now, he has not been paid any compensation nor any award for acquisition of land having been passed for which he may seek compensation under the Land Acquisition Act, 1894.

Having considered the submissions made by learned counsel for the appellant, this Court is of the considered view that

present appeal in a suit for permanent injunction is not maintainable because the facts are not disputed that construction of road has already taken place in the year 1986 and there is no question of issuance of any injunction at this juncture. However, it is also not disputed that the plaintiff has not been paid any compensation nor any award has been passed on the basis of which present appellant may seek compensation. Present regular second appeal is dismissed being not maintainable. However, appellant is at liberty to file an appropriate writ petition for seeking compensation under the law.

(Shekher Dhawan)
Judge

February 15, 2016
"DK"/anju