

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

RSA No.5414 of 2012 (O&M)

Date of decision : 09.08.2017

Indra Bai @ Indra Rani

.... Appellant

Vs.

Pritam Kaur and others

.... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Rakesh Chopra, Advocate
for the appellant.

Mr. Satbir Gill, Advocate
for respondents No.1, 3 to 6.

AJAY TEWARI, J.(ORAL)

This appeal has been filed against the concurrent judgments of the Courts below decreeing the suit of the respondents for damages on account of malicious prosecution.

The brief facts are that there was an on-going civil dispute between the parties. During that the appellant had filed a complaint that the respondents had entered into her property and demolished a wall belonging to her. The trial of that complaint went on for 8 years and ultimately the Criminal Court acquitted the respondents and also gave a finding that the complaint seemed to have been filed with an oblique motive. It is thereafter that the respondents filed the instant suit.

Both the Courts found that the appellant had not been able to prove even in the Civil Court that in fact the respondents had demolished the wall and consequently held that even though the finding of the Criminal

that she had reasonable cause to prosecute the respondents, decreed the suit. Though the claim was for Rs.1,50,000/- the Courts below held the respondents entitled to Rs.1,00,000/- as damages on the basis of rule of thumb.

Learned counsel for the appellant has argued that the findings of the Courts below that the appellant had not been able to prove the demolishing of the wall is perverse because the appellant had produced oral evidence. Counsel has, however, fairly accepted that the witnesses produced in the Civil Court were the same who were disbelieved in the Criminal Court.

In these circumstances, it can not be held that the finding recorded by the Courts below is perverse or based on no evidence. Once it is held that the appellant has not been able to prove the demolition of the wall either in Criminal Court or in the Civil Court the conditions enumerated by this Court in the judgment relied upon by the Appellate Court i.e. *Smt.Muni Devi Vs. Matroo Lal, 2012 (2) CCC 492* have been met.

No question of law arises. Appeal stands dismissed.

Since the main case has been decided, the pending Civil Miscellaneous Application, if any, also stands disposed of.

09.08.2017

pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No