

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

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RSA No.5326 of 2014 (O & M)
Date of Decision:09.11.2017

Suraj Bhan

...Appellant

Versus

Raj Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vijay Pal, Advocate
for the appellant.

Mr. S.R. Hooda, Advocate
for respondent Nos.1 to 6.

ANIL KSHETARPAL, J.(Oral)

Plaintiff-appellant is in regular second appeal against the concurrent findings of fact arrived at by the Courts below.

Dispute between the parties is very small. Defendants claimed that there is a channel of water, which has been demolished by the plaintiff. Whereas, on the other hand plaintiff claims that the land underneath the aforesaid channel belongs to him.

Both the Courts below have concurrently found after relying upon the statement of DW2-Ramphal Singh, SDO, Beri Water Sub-Division that there was a water channel, which was continuing since the year 1968 and the plaintiff has demolished the aforesaid water channel.

At the time of notice of motion, learned counsel for the appellant has contended that the learned First Appellate Court has ordered restoration/reconstruction of the water channel, although, there was no prayer in this regard. In this case, defendants apart from filing written

statement had also filed a counter-claim claiming restoration of the water

channel.

In these circumstances, there is no force in the submission of learned counsel for the appellant. Even otherwise the Courts are entitled to mould the relief as per the requirement of the situation.

Learned counsel for the appellant has further submitted that the land underneath the water channel belongs to the plaintiff and, therefore, the land which belongs to the plaintiff cannot be taken away without payment of compensation.

I have considered the submission. However, this argument has been raised by the learned counsel for the appellant for the first time before this Court. Plaintiff if has any claim with regard to compensation, he would be entitled to raise such a plea before the Competent Authorities.

However, there is no error in the judgments passed by the Courts below.

Hence, this regular second appeal is dismissed.

09.11.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes
Whether Reportable : No