

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Anuradha
2017.08.11 16:50
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RSA-5448-2014

Decided on: 9.8.2017

BALJIT SINGH & ORS

...APPELLANTS

VS

KARAN SINGH AND ORS

RESPONDENTS

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Madan Gupta, Advocate
for the appellants.

Mr. Prem Chand Chaudhary, Advocate
for respondents No. 1 to 3.

Mr. Madan Pal, Advocate
for respondent No.4.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment/order of the Lower Appellate Court below reversing that of the trial Court thereby dismissing the suit filed by the appellant.

The claim of the appellant was that the respondent No.5-Gram Panchayat should not construct the drain between two particular points which were shown as 'A' to 'B' in the site plan Ex.P-1 the Gram Panchayat had illegally blocked an earlier existing 'nali' which had resulted in accumulation of water around in their property. Earlier the Gram Panchayat had filed a suit against respondents Nos. 1, 2 and 4 for an injunction restraining them from dismantling the construction which had been made by the Gram Panchayat. At the very initial stage in that suit, the Sub-Divisional Engineer of the Sanitation Department was appointed by the Court as a Local Commissioner to visit the spot and suggest the best technical way so that the work undertaken by the Gram Panchayat should also not suffer and

the problem of water accumulating around the property of the respondents No. 1, 2 and 4 be also sorted out. The technical expert gave his report as per which he suggested that the best way to solve the problem is to make a drain between portion 'A' to 'B' and it was for that reason that the drain was constructed. The trial Court decreed the suit primarily on the ground that the appellant was not a party. Lower Appellate Court however held that the previous litigation had culminated only in this Court and disagreed with the finding of the trial Court on the ground that evidence which was relied upon by the trial Court in the suit had been considered by the Courts in the earlier litigation also and further that apart from placing on record the site plan Ex.P-1 the appellants had not led any evidence to show that the arrangement which had been so painstakingly brought about was wrong. Before me the only argument raised by learned counsel for the appellants is that the appellants were not parties in the earlier suit. He, however, is not in a position to point out any other evidence which may indicate that the arrangement made by the Courts in the previous litigation was technically not feasible, or that there was any better solution.

No question of law arises.

Consequently, appeal stands dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stand disposed of.

9.8.2017
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No