

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

446

RSA No.1864 of 1991 (O&M)

Date of decision: 21.02.2018

Municipal Committee, Jind

..... Appellant

Versus

Ram Sarup

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Dhawal Bhandari, Advocate
for the appellant.

Mr. Raj Kumar Gupta, Advocate
for the respondent.

ANIL KSHETARPAL, J. (ORAL)

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

Plaintiff had filed a suit for permanent injunction restraining the defendant from recovering balance amount of Rs.65,000/-. Undisputed facts are that the defendant-appellant leased out the land to the plaintiff on 24.06.1986 for a sum of Rs.2 lacs. As per the terms of the lease, the defendant-Municipal Committee, Jind was to dig a five feet deep pond in an area of two acres. It was further provided that in case the Municipal Committee does not dig five feet deep pond, the plaintiff would be entitled to retain Rs.65,000/- out of the remaining lease money.

It is further not in dispute that the pond as undertaken was not dug within the time stipulated in the lease deed. The plaintiff earlier also filed a suit which was withdrawn by him as the defendant-Municipal

Committee gave assurance that it will comply with the terms and conditions of the lease deed. However, the terms were not complied with even after assurance given. Both the Courts have concurrently found that the pond as dug is not in the area on two acres of land which was agreed upon.

The plaintiff also filed another suit i.e. Suit No.341 of 21.05.1987 for the same relief. The defendant-Municipal Committee, Jind gave an undertaking that the recovery of Rs.65,000/- as agreed in the lease deed shall stand waived. After the suit was disposed of in terms of the undertaking, the Municipal Committee also passed a resolution waiving the amount. However, later on the Government set aside the resolution and thereafter Municipal Committee started recovery proceedings.

Both the Courts after examining all these facts have decreed the suit after appreciating of evidence available on the file. Such appreciation of evidence is not shown to be either perverse or result of misreading of evidence.

In view thereof, there is no scope for interference with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

21.02.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No