

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.890 of 1999 (O&M)

Date of Decision: May 10, 2018

State of Haryana & others

...Appellants

Versus

Hoshiar Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr.Anil Mehta, DAG, Haryana,
for the appellants.

None for the respondents.

AMIT RAWAL, J. (Oral)

Appellant-State of Haryana is aggrieved of the judgment and decree rendered by the Lower Appellate Court, whereby the suit of the respondent-plaintiff seeking declaration and recovery of ₹75,600/-, has been decreed to the extent of ₹47,712/- along with interest @ 6% per annum. The appeals laid before the Lower Appellate Court by both the parties were also dismissed. Only the State of Haryana has approached this Court vide Regular Second Appeal *ibid*.

The case set up in the plaint on behalf of the respondent-plaintiff was that in Rabi, 1989, he cultivated the crop of mustard seeds in 15 acres of his agricultural land and had collected ripen mustard seeds in the Khaliyan (place where the grain goods are to be thrashed out). On 25.4.1989, due to the negligence of the officials of the Canal Department, the Paluwas Minor suffered a breach and the canal water entered in the Khaliyan of the plaintiff, resulting into damage to the aforementioned

mustard seeds. The aforementioned loss was quantified to the tune of ₹74,400/-. It was alleged that the department, at their own, assessed the loss, which came to ₹47,712/-, which was not correct on the premise that cultivation was done only on 13 Kanals 13 Marlas of land and not 15 acres.

The defendants contested the suit by denying the cultivation of the crop of mustard seeds, but as per the report of the expert, loss was assessed to the extent of ₹47,712/-.

The trial Court, on the basis of the evidence, confined the relief only to ₹47,712/-. The appeals filed by the parties, as indicated above, have been dismissed.

Mr. Anil Mehta, learned Deputy Advocate General, Haryana, appearing on behalf of the appellant-State submitted that the judgments and decrees of the Courts below are not sustainable in the eyes of law, for, the cultivation done by the respondent-plaintiff was only on 13 kanals 13 marlas of land and not 15 acres and, therefore, the aforementioned area could not yield the crop to the tune of ₹75,600/- in the year 1989, therefore, there is a gross illegality and perversity.

I have heard the learned counsel for the appellants and appraised the paper book.

On account of the fact that the canal was breached, the department appointed the Canal Officer to assess the loss by examining all the revenue record, who found that the respondent-plaintiff had actually suffered a loss to the tune of ₹47,712/- instead of ₹75,600/-. The trial Court relied upon the aforementioned report. The State was estopped to challenge the aforementioned findings, for, the plaintiff has filed the cross appeal before the Lower Appellate Court, but not approached this Court.

The argument of the learned State counsel is not able to bring the case within the realm of perversity to enable me to form a different opinion than the one arrived at.

For the reasons stated above, there is no illegality or perversity in the findings under challenge. No ground for interference is made out.

Appeal stands dismissed.

May 10, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No