

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

106

RSA No.2660 of 2011 (O&M)

Date of decision: 08.05.2018

Hari Kishan

..... Appellant

Versus

Haryana State Agricultural Marketing Board
and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. R.S. Mamli, Advocate
for the appellant.

Mr. Sandeep Moudgil, Advocate
for respondents No.1 to 3.

Mr. Munish Gupta, Advocate
for respondent No.4.

ANIL KSHETARPAL, J. (ORAL)

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

Plaintiff had filed a suit for mandatory injunction directing the official defendants to construct a culvert under the road for discharge of the water. The suit was contested by the defendants. Both the Courts have recorded a finding that if the culvert is constructed under the road, the crops of defendant No.4 would be damaged.

The Courts have further found that there is a drain existing on the southern side of the fields of the plaintiff and the rain water would naturally flows in it. This fact has been admitted by the plaintiff when he appeared in the witness box.

Learned counsel for the appellant has argued that as per the communications dated 27.08.2001 and 26.07.2001, at one time, decision was taken to construct a culvert beneath the road, however, later on, due to pressure from the other side, it was not constructed. A careful reading of the communications dated 27.08.2001 and 26.07.2001, only prove that a proposal was made, however, since it was opposed by Sh. Pale Ram, therefore, the idea was dropped.

In the considered opinion of this Court, the Civil Court cannot direct the official respondents to construct a culvert particularly when already a drain is in existence towards the southern side of the fields of the plaintiff. If there is any obstruction in the flow of the water in the aforesaid existing drain, the appellant should approach the authorities.

With these observations, the appeal is disposed of.

08.05.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No