

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

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**CM-4914-C-2016 in/and
RSA-1841-2016 (O&M)
Date of Decision : 02.08.2018**

Satbir Singh

..... Appellant

Versus

Randhir Singh

..... Respondent

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Vimal Kumar Gupta, Advocate
for Mr. Vijay Kumar, Advocate
for the appellant.

AJAY TEWARI, J. (ORAL)

CM-4914-C-2016

For the reasons recorded, the application is allowed. Delay of 38 days in filing the appeal is condoned.

RSA-1841-2016 (O&M)

This appeal has been filed against the concurrent judgments of the courts below whereby suit filed by the respondent was partly decreed.

The respondent (who is the brother of the appellant) filed a suit claiming damages of Rs.43,213/- alongwith interest on account of the fact that the appellant had destroyed his standing paddy crop in November, 2008 and the succeeding wheat crop in April, 2009 spread over 14 kanals 13 marlas of land. The courts below held that as regards the destruction of the paddy crop no evidence was led by the respondent but held that the destruction of wheat crop was proved and consequently party decreed the suit for an amount of Rs.20,000/- odd.

Counsel for the appellant has primarily argued regarding the sufficiency of evidence in respect of the destruction of wheat crop.

I find no fault with the findings of the courts below. As regards the paddy crop, there was actually no evidence except the assertion of the respondent but as regards the wheat crop there was an evidence in the shape of criminal proceedings which had been initiated against the appellant. In that challan photographs of plot had been placed on record.

Counsel for the appellant has argued that merely by filing of challan the case could not have been proved. That may be so, but it cannot be lost sight of the fact that the respondent was not obligated to prove his case beyond reasonable doubt. The courts below have considered the evidence and have come to the conclusion that the case set up by the respondent was more probable than the case set up by the appellant.

Counsel for the appellant has not been able to persuade me that the findings of fact recorded by the courts below are either based on no evidence or based on such a perverse misreading of evidence so as to justify the interference of this Court in second appeal.

Appeal is dismissed. No costs.

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

August 02, 2018
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(AJAY TEWARI)
JUDGE

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