

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

**RSA No. 5161 of 2014 (O&M)
Date of decision: 28.5.2018**

Phuman Singh

... Appellant

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Sukhjit Singh, Advocate
for the appellant.

ARUN PALLI, J. (Oral)

The suit filed by the appellant-plaintiff was dismissed by the trial court, vide judgment and decree dated 14.5.2013. As even the appeal preferred against the said decree failed, and was dismissed on 21.4.2014, he is in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

The plaintiff claimed a decree for injunction, restraining the defendants from causing any interference in the peaceful removal operation of upper layer of unfertile earth of the land measuring 34K-16M, situated in village Raipur Gujran, Tehsil Nakodar.

On a consideration of the matter in issue and the evidence on record, both the courts concurrently concluded that Gram Panchayat of village Raipur Gujran, vide resolution Ex.D1, had written to the defendant-department that plaintiff-Phuman Singh had extracted sand up to 7 feet from his land, which was concededly adjacent to Dusi Bandh. Resultantly, a notice (Ex.D2), for illegal mining was served upon the plaintiff. The fact that

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the plaintiff had, indeed, extracted sand upto 7 feet beneath his land was also verified by Joga Singh, officer of the department. Not just that, the General Manager, Mining, had visited the spot on 29.5.2009, and found that illegal mining was done by the plaintiff. Resultantly, a demand for sum of Rs.2,22,030/- was raised, which the plaintiff was required to deposit with the department. As the plaintiff failed to respond to the demand, a penalty of Rs.2,22,030/- was imposed upon him. Thus, it was proved that the plaintiff had extracted sand in an illegal manner from an area measuring 170x230 sq. feet, without obtaining any licence from appropriate authority. Apparently, it was to escape the liability owing to an illegal mining, the plaintiff filed the present suit on 16.7.2009. That being so, the only and the inevitable conclusion that could be reached was: the suit filed by the plaintiff wholly misconceived and devoid of merit.

On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the findings recorded by both the courts were either contrary to the record or suffered from any material illegality.

No question of law, much less any substantial question of law, arises for consideration. The appeal being devoid of merit, is accordingly dismissed.

28.5.2018
AK Sharma

(ARUN PALLI)
JUDGE

Whether speaking / reasoned:
Whether Reportable:

YES