

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

RSA No.348 of 2018 (O&M)

Date of decision: 16.05.2018

Jagtar Singh

.....Appellant

Versus

Surjit Singh @ Jeeta Singh

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Digvijay Nagpal, Advocate,
for the appellant.

Ritu Bahri, J.

CM No.884-C of 2018

For the reasons mentioned in the application, same is allowed and
delay of 12 days in filing of the appeal is condoned.

CM Nos.885 & 886-C of 2018

Misc. applications stand allowed as prayed for.

RSA No.348 of 2018

This appeal has been filed against the judgment dated 17.03.2017
passed by the Additional District Judge, Sri Muktsar Sahib, dismissing an
appeal filed by plaintiff-appellant against the judgment and decree dated
20.09.2016 passed by the Additional Civil Judge (Senior Division), Malout,
whereby suit filed by plaintiff-appellant for compensation and damages, has
been dismissed.

Jagtar Singh-plaintiff (appellants herein) filed a suit for
compensation and damages alleging that about 1½ years back, he had grown

Rs.10/-per tree. He had also paid Rs.10/- per tree to the labour for sowing the same. Besides this, he had spent Rs.7000/- for pesticides and paid Rs.2200/- per month to the care taker. Land of the defendant-respondent is adjoining to the land of plaintiff. It is alleged that on 09.05.2015, at about 1.00 A.M., after harvesting wheat crop, defendant-respondent set the stubble of wheat on blaze intentionally and deliberately and also threw some wheat stubble in the land of plaintiff, where eucalyptus trees were planted, as a result of of which, eucalyptus trees were burnt. In this way, defendant had caused loss of Rs.50,000/- to the plaintiff-appellant. Plaintiff requested the defendant to compensate him for the loss suffered by him due to his wrongful act, but he (defendant) refused to do so. Hence, the suit.

Upon notice, defendant-respondent filed written statement by taking preliminary objections with regard to maintainability of suit, concealment of material facts etc. On merits, it was stated that on 08.05.2015, at 4.00 P.M., plaintiff and his son Jagjit Singh along with 5-6 persons were sitting on the motor of tubewell and lit the fire in the adjoining field of Daljit Singh. In this way, they had caused damage to the wheat chuff and straw. The matter was reported to the police. Panchayat was convened, where plaintiff confessed his guilt and agreed to purchase wheat chuff for the animals of Daljeet Singh. It was further stated that when Daljeet Singh demanded money from plaintiff, he in connivance with police officials, foisted a case against him and his family members. It was further stated that the defendant did not cause any damage to the crops or trees of the plaintiff. Rather, plaintiff himself had caused loss to the standing wheat straw and chuff of defendant. All other allegations made in the plaint were denied and prayer for dismissal of the suit was made.

From the pleadings of the parties, following issues were framed by the trial Court:-

1. Whether the plaintiff is entitled for damages & compensation to the tune of Rs.50,000/-? OPP
2. Whether suit is not maintainable? OPD
3. Whether the plaintiff has suppressed material facts from the Court? OPD
4. Relief.

Trial Court, after going through the evidence led by the parties, dismissed decreed the suit. Appeal against the said judgment also met the same fate.

Heard.

While dismissing the suit, trial Court had observed that during his cross-examination, Jaskaran Singh (DW-1) stated that he had never seen any *safeda* trees in the filed of plaintiff-Jagtar Singh. Moreover, bill, Ex.P2, with regard to the alleged trees were objected to on the ground of mode of proof because at the time of evidence of plaintiff, no authorized person from Prakriti Clonal Agrotech had been examined to prove the veracity of the said bill. It was not mentioned as to how the amount of compensation has been calculated by the plaintiff. No bill with respect to the alleged pesticides sprayed on the eucalyptus trees was placed or proved on record. No person, who was allegedly appointed as care taker for the said trees at a remuneration of Rs.2200/- per month, had been examined by the plaintiff to prove his version. Trial Court further observed that plaintiff had failed to prove existence of eucalyptus trees in question. With these observations, suit of the plaintiff was dismissed. The first Appellate Court affirmed the findings of the trial Court and dismissed the appeal.

calling an authorized person from Prakriti Clonal Agrotech, to prove the veracity of the bill Ex.P2. Plaintiff has failed to prove that he had planted 112 eucalyptus trees on his land. He has also failed to lead any cogent and convincing evidence to show that he had appointed anybody as care taker of those trees at the remuneration of Rs.2200/- per month. In the absence of any evident, suit of plaintiff-appellant has been rightly dismissed by both the Courts below. No illegality, much less perversity, has been found in the impugned judgments, warranting interference by this Court. The evidence has been appreciated in the right perspective.

No substantial question of law arises for consideration in this appeal.

Dismissed.

16.05.2018
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No