

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

RSA No. 1793 of 2019 (O&M)

Date of Decision:22.10.2019

Rakesh Kumar and another

.....Appellants

Versus

Punjab State Transmission Corporation Limited and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sandeep Kumar Bokolia, Advocate
for the appellants.

LISA GILL, J.

Appellants are the unsuccessful plaintiffs with their suit for declaration being dismissed by the learned Additional Civil Judge (Sr. Division), Faridkot, vide impugned judgement and decree dated 21.10.2016 and their appeal challenging the same also dismissed by the learned District Judge, Faridkot, vide impugned judgement and decree dated 21.12.2018.

Brief facts necessary for the adjudication of the case are that the plaintiffs filed a suit for declaration to the effect that the plan sanctioned for erecting 66 KV tower line over the land as described in the plaint, is illegal, null, void, arbitrary and prepared only with an intention to cause loss to the plaintiffs due to a grudge. Further prayer for permanent injunction restraining the defendants from erecting the Tower Line and for mandatory injunction for directing the defendants to remove the said tower, illegally erected by the defendants was also addressed. It is pleaded that the plaintiffs along with the other co-sharers are owners in possession of the agricultural land as detailed in the plaint. Defendants sought to erect a electricity tower

line from village Kot Sukhia to Kaler for providing electricity to a grid being established at village Kaler. A route plan was sanctioned, but the same is pleaded to be incorrect and sanctioned only with a view to cause loss to the plaintiffs. In case, the tower line is erected as per the said sanctioned plan, a curved tower line would come into existence, which is violative of the rules of Punjab State Transmission Corporation Limited (for short 'PSTCL') and Punjab State Power Corporation Limited (for short 'PSPCL'). It is further stated that reasons for the grudge being held by the defendants against the plaintiffs is that on 03.02.2010, Mr. Sukhbir Singh Badal, was to lay a foundation stone for construction of the same grid and a function was arranged at the spot by the officials of the defendants. A collection was made from the farmers whose tube-well connection fell under the grid area. The collection was stated to be at the rate of ₹500/- per connection. Husband of plaintiff no.2 had also deposited the same. However, he disclosed the manner of collection at various forums and the same was published in a number of newspapers. Due to the said disclosure and publication of the matter, the defendants were projected in a poor light and an inquiry was also held in this matter. It is only due to this grudge that an incorrect route plan has been sanctioned to cause wrongful loss to the plaintiffs. Plaintiff's land, it is stated stands bifurcated in two portions at inconvenient angles. It is further pleaded that on inquiry, the defendants gave vacillating and incorrect reasons for erection of the tower line as proposed. It is pleaded that the sanctioned route plan is arbitrary and in case the defendants had moved 100 meters further, less loss would have been caused to the plaintiffs. Furthermore, the tower line has been erected by the defendants only about

200 meters towards the southern side from the brick-kiln, though it was to be erected 450 meters therefrom. Thus, the tower line has not been erected even as per the alleged sanctioned site plan. During the pendency of an earlier suit filed by the plaintiffs, the defendants are claimed to have raised the tower line. The suit was accordingly withdrawn on 02.02.2012 and the present suit filed, claiming the appropriate relief. It is also stated that by erection of the proposed curved tower line, much transmission loss shall be caused. When the requests of the plaintiffs, it is submitted, failed to render any result, the suit was filed.

Defendants-respondents contested the suit. Various preliminary objections were taken in the written statement including that of non maintainability of the present suit being not maintainable. It is stated that the suit was filed by the plaintiffs only with a *mala fide* intention to create unnecessary hurdles in the smooth functioning of the defendants. The work of stringing and sagging of Kot Sukhia Kaler single circuit tower line on double circuit towers has been undertaken on the basis of a duly sanctioned scheme. The scheme is stated to have been duly sanctioned by Deputy Chief Engineer, TLSC Circle, Jalandhar vide memo No. 2678 dated 25.03.2011 and approved by the Chief Engineer Planning, Patiala for the works to be carried out during the year 2010-11, conveyed vide letter no. 118. Route of the line was approved by the Design Directorate PSPCL, Patiala, vide memo No. 192 dated 07.02.2011 on the basis of which estimate was prepared and sanctioned by the competent authority. All allegations regarding the collection of any amount for a function purportedly arranged by the officials of the defendants for the visit of Mr. Sukhbir Singh Badal, was specifically

denied. The tower line, it is pleaded was being raised for the benefit of the farmers and other people of the area. No objection was ever filed by the plaintiffs and it is stated that they merely wish to create hurdles in the smooth functioning of the defendants. No loss, it is stated, occurred to the plaintiffs with the setting up of the transmission line as per the sanctioned plan. Dismissal of the suit was prayed for.

Replication was filed. From the pleadings of the parties, following issues were framed by the learned trial Court:-

1. Whether the plaintiffs are entitled for decree of declaration, as prayed for?OPP
2. Whether the plaintiffs are entitled for decree of permanent injunction, as prayed for?OPP
3. whether the plaintiffs are entitled for decree of mandatory injunction, as prayed for?OPP
4. Whether suit of the plaintiffs is not maintainable?OPD
5. Whether plaintiffs have no cause of action to file the present suit?OPD
6. Relief.

Both the parties led evidence in support of their respective claims/stands.

Learned trial Court on considering the evidence on record concluded that the plaintiffs failed to prove their case on the basis of the evidence on record. It is however observed by the learned trial Court that the plaintiff would be at liberty to take steps for seeking compensation for use of their land for erection of poles and passing of the electric wires. Suit was accordingly dismissed.

Appeal filed by the present appellants was dismissed by the learned District Judge, Faridkot, vide impugned judgement and decree dated 21.12.2018

Aggrieved therefrom, present appeal has been filed by the

appellants-plaintiffs.

Sole argument raised by learned counsel for the appellants is that the transmission line laid down by the respondent-department, is not even as per their own route plan, Ex.D-2. It is thus prayed that the present appeal be allowed and both the judgements and decrees passed by the learned Courts below be set aside. Consequently suit filed by the appellants-plaintiffs be decreed throughout.

I have heard learned counsel for the appellants and have carefully gone through the photocopy of the requisitioned record with his assistance.

It is apparent from a perusal of the record and in-fact not denied by learned counsel for the appellants that route plan Ex.D-2, was duly sanctioned by the Deputy Chief Engineer, TLSC Circle, Jalandhar. The scheme was further approved by the Chief Engineer Planning, Patiala for the works to be carried out during the year 2010-11, Ex.D-4. Route plan was also approved by the Design Directorate PSPCL, Patiala. It is on this basis that estimate was prepared and sanctioned by the Competent Authority. The scheme was duly notified in the Punjab Government Gazzette dated March 25, 2011, Ex.D-1. It is a matter of record that the plaintiffs did not submit any objection before raising of the line. PW-1-Rakesh Kumar, has admitted in his testimony that no written objection was submitted by the plaintiffs. PW-1 categorically admitted that the line was also passing through the land of many other agriculturists. In order to substantiate the argument that the transmission lines laid down by the department are not as per their own route plan, Ex.D-2, learned counsel for the appellants seeks to refer to the site plan

Ex.P-3 and P-4 drawn up by PW-3-Balour Singh. It is apparent from the record that before preparation of the site plan, no notice was ever given to the respondents-defendants. None of the defendants were present on the spot.

Apart from the above, learned counsel for the appellants is unable to deny that the site plan, Ex.P-4, was not even put to DW-2-Jaspal Singh, AE (Retd.), who has proved the route plan, Ex.D-2. Perusal of the testimony of DW-2-Jaspal Singh reveals that he has categorically denied the suggestion that the transmission lines are not as per the sanctioned site plan. In this view of the matter, the argument raised on behalf of the appellants that the transmission lines are not as per their own sanctioned plan, cannot be accepted as the same is clearly unsubstantiated by the evidence on record. Learned counsel for the appellants is unable to point out any evidence on record to substantiate the argument raised by him.

Learned counsel for the appellants, is unable to point out any question of law much less a substantial question of law which may be involved for consideration in this regular second appeal. Both the learned Courts below, after proper appreciation and consideration of the evidence on record, have returned concurrent findings of fact, vide impugned judgements, which call for no interference.

No other argument has been raised.

Keeping in view the facts and circumstances as discussed above, impugned judgments and decrees dated 21.10.2016 and 21.12.2018 passed by the learned Additional Civil Judge (Sr. Division) Faridkot and learned District Judge, Faridkot, respectively, are upheld.

Present appeal is, consequently, dismissed with no order as to cost.

22.10.2019

s.khan

[LISA GILL]

Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.