

RSA No.2702 of 2019 (O&M)

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

RSA No.2702 of 2019 (O&M)
Date of decision: 11.12.2019

Raghubir Singh

.....Appellant

versus

Savitri Devi and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. K.S. Saini, Advocate, for the appellant.

RAMENDRA JAIN, J. (ORAL)

Through this Regular Second Appeal, defendant has laid challenge to judgment and decree of the lower appellate Court dated 28.02.2019, affirming the judgment and decree of the trial Court dated 29.01.2018, whereby he was directed to pay compensation of Rs.6.00 lakh along with interest @ 6% per annum to respondents No.1 to 5 (plaintiffs No.1 to 4 and proforma defendant No.5).

Briefly, respondents No.1 to 4, impleading respondent No.5 as proforma defendant, filed a suit for recovery of Rs.6.00 lakh as damages against appellant and proforma respondents No.6 to 9 for the death of their ancestor Dilbagh Singh on account of electrocution through wires allegedly fixed by appellant in the land of respondents No.7 to 9 to save his crop from stray animals.

Upon notice, suit was contested by the appellant as well as proforma respondents. Proforma respondents took the stand that wire in

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their land was fixed by the appellant without their permission, whereas appellant took contrary stand that he never fixed any wire in his land or in the land of proforma respondents.

Trial Court, after holding trial, decreed suit of respondents-plaintiff in toto against all the defendants with interest @ 6% per annum from the date of filing the suit till realization of the decretal amount vide judgment and decree dated 29.01.2018.

Being aggrieved, appellant and proforma respondents approached the lower appellate Court by way of their respective separate appeals. The lower appellate Court vide judgment and decree dated 28.02.2019, after hearing both the sides, upheld judgment and decree of the trial Court against the appellant, dismissing his appeal. Whereas appeal of proforma respondents was accepted and aforesaid judgment and decree of the trial Court against them was set aside, holding that appellant was solely responsible to make payment of the decretal amount to respondents No.1 to 5.

Learned counsel for the appellant *inter alia* contends that both the Courts below failed to appreciate that field in which Dilbagh Singh died due to electrocution, did not belong to the appellant. The appellant never fixed any wire. The electric motor vide which the current passed to the wires was not installed in the field of the appellant. Thus, he has illegally been held responsible to make payment of damages.

Having given thoughtful consideration to the above submissions, this Court finds the instant appeal completely devoid of any merit for the reasons to follow.

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Undisputedly, as per post-mortem report (Ex.PW4/A) Dilbagh Singh died due to electrocution. When the police did not take any action against the appellant or proforma respondents in FIR lodged by PW2 Prem Singh, respondents filed a complaint in the Court, wherein finding *prima facie* case against the appellant, he was summoned to face trial under Sections 304, 120-B read with Section 34 IPC. Thus, both the Courts below have legally ignored inaction of the police in FIR (Ex.P-12) against the appellant and proforma respondents. It is also not disputed that deceased Dilbagh Singh was purchasing water for irrigation of his field from proforma respondent No.7-Jaswinder Kaurt on payment of Rs.40/- per hour. The evidence led by respondents-plaintiff before the trial Court that it was only appellant, who had fixed barbed wire to save his crop from damage in the night, has gone un rebutted. Thus, both the Courts below have rightly recorded concurrent findings holding liability of the appellant to pay the damages.

No question of law much less substantial has been raised in this appeal. Hence, the same is held not maintainable.

I have gone through judgments of both the Courts below and find no illegality or perversity in the same.

Dismissed.

(Ramendra Jain)
Judge

December 11, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No