

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.2671 of 2012 (O&M)

Date of decision: 22.02.2019

Bhagwan Singh and others

..... Appellants

Versus

Raghubir Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Jai Vir Yadav, Advocate
for the appellants.

Mr. Sanjay Vij, Advocate
for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

Defendants-appellants are in the regular second appeal against the judgment passed by the First Appellate Court reversing the judgment and decree of the trial Court.

Plaintiff-respondent filed a suit for damages claiming recovery of Rs.70,000/- on account of damage to the tubewell as well as room. The defendants denied having caused any damage to the tubewell or to the room. Learned trial Court on appreciation of evidence dismissed the suit, however, the First Appellate Court has reversed the judgment of the trial Court.

Learned counsel for the appellants has submitted that the First Appellate Court has not recorded any positive finding to the effect that it was the defendants-appellants who had damaged/demolished the tubewell and the room. He has submitted that learned First Appellate Court has

referred to the evidence which only proves that the construction material, household articles and other things were recovered from a pit.

On the other hand, learned counsel for the respondent-plaintiff has submitted that the First Appellate Court has held as under:-

“In the considered opinion of this Court, it was a case of sheer high handedness on the part of the respondents-defendants in demolishing the structure and then putting the entire articles of the appellant-plaintiff including construction material in a pit.”

However, learned counsel could not draw attention of the Court to any discussion or analysis of evidence on the basis whereof the aforesaid conclusion was arrived at. The sentence which has been extracted above is not preceded by any discussion as to how the Court arrived at a conclusion that it was the defendants who were guilty of demolishing the building belonging to the plaintiff-respondent.

In view thereof, the judgment passed by the First Appellate Court is set aside and the case is remitted back to the First Appellate Court to re-decide the appeal without being influenced by the order passed by this Court or the previous judgment which has been set aside.

With these observations, the appeal is disposed of.

The pending miscellaneous application, if any, shall stand disposed of accordingly.

Parties through their counsel are directed to appear before the First Appellate Court on 18.03.2019.

22.02.2019
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No