

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

SAO-20-2013 (O&M)

Date of Decision: 10.07.2019

Surinderpal Kaur

.... Appellant

Versus

Gram Panchayat/Gram Sabha of village Shergarh Bara and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Deepak Sharma, Advocate for the appellant.

RAMENDRA JAIN, J. (ORAL)

Through this second appeal, appellant has laid challenge to the concurrent findings of both the Courts below recorded vide orders dated 30.08.2012 (Ist Appellate Court) and 05.09.2011 (Executing Court), whereby her application under Order XX1 rule 32 read with Section 151 CPC, was dismissed.

Briefly, Tara Singh (since deceased) father of appellant filed Civil Suit No. 119 dated 10.02.1978 (Annexure A-1), against his co-villager and Gram Sabha/Gram Panchayat Shergarh Bara, Tehsil Sirhind, impleading Sarpanch Hazura Singh and one Amrik Singh, for permanent injunction restraining them including their servants and agents from converting the natural flow of water of street situated in village Shergarh (Bara) Tehsil Sirhind, shown in red colour in the map attached from East to West i.e. from points AB to CD to West to East i.e. from

points CD to AB, illegally and forcibly. It was pleaded that the natural flow of water in the street was from East to West. The defendants wanted to change the said flow from West to East, without any legal right. In case, defendants would succeed in doing so, the water would collect in front of his house, which would create great nuisance and damage to his house.

After holding trial, suit of the father of appellant was decreed vide judgment and decree dated 31.08.1979, which attained finality being not further challenged by respondents-defendant.

After 32 years, the appellant being daughter of Tara Singh, filed an application under Order 21 Rule 32 read with 151 CPC, to restrain the respondents from converting the flow of water illegally and forcibly, in violation of the aforesaid judgment and decree dated 31.08.1979, which after full fledged trial was dismissed by the Executing Court vide order dated 05.09.2011.

Being aggrieved, the appellant approached the Ist Appellate Court, but remained un-successful, as her appeal too was dismissed vide judgment dated 30.08.2012.

Learned counsel for the appellant *inter alia* contends that both the Courts below, have failed to appreciate that the respondents have changed the flow of water, in violation of the judgment and decree dated 31.08.1979, detrimental to the interest of appellant.

Having given thoughtful consideration to the submissions of learned counsel for the appellant, this Court finds the instant regular second appeal, completely devoid of any merit for the reasons to follow:

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

There are concurrent findings of both the Courts below being based on correct appreciation of evidence that in a long span of 32 years natural flow of water *suo motu* had changed. The respondent-defendants were not changing the flow of water, detrimental to the interest of appellant rather, the entire circumstances in the village had changed in a long span of 32 years. There was a dire necessity to lay down drains for the welfare of villagers, due to which the appellant was not going to suffer any loss.

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

The instant appeal, being meritless, is dismissed.

July 10, 2019
rishu

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No