

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

**RSA No.2337 of 2016 (O&M)
Date of Decision.01.02.2019**

Jagsir Singh alias Soma Singh

...Appellant

Vs

Reliance Communication and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sodhi, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The present appeal is directed against the concurrent finding of fact whereby the suit of the appellant-plaintiff claiming damages of ₹5 lakhs along with interest, has been confined to ₹50,000/- along with pendente lite and future interest @6% per annum till realization of decretal amount.

The appellant-plaintiff sought the damages on the premise that defendant had installed tower abutting southern side of his house and while doing so, water had accumulated in pit, resulting into seepage in foundation of the house. In this process, not only damage to the house was caused but mental tension, agony and botheration.

The defendant contested the suit by taking all possible objections.

Plaintiff in support of the evidence examined himself as PW1 and brought on record complaint made to Deputy Commissioner. PW2 and PW3 also deposed in the same line whereas PW4 appeared from the office of SDM, Bathinda with regard to application

Ex.PW4/A and report of the Tehsildar PW4/B and copy of enquiry report Ex.PW4/C for purpose of assessing damages. PW5 draftsman proved site plan Ex.PW4/H. Ex.P6 to Ex.P17 were photographs and closed the evidence.

Defendants also rebutted the evidence.

Mr. Sodhi, learned counsel appearing on behalf of the appellant submitted that unassailable and unscathed evidence brought on record clearly established the damages to the tune of ₹5 lakhs. The reasoning assigned by the Courts below confining to ₹50,000/- is neither here nor there. It is just an imaginary figure. The Courts below have to decide the suit on the basis of documentary evidence. Photographs also established the damage, therefore, judgments and decrees of the Courts below are liable to be set aside.

I have heard learned counsel for the appellant, appraised the paper book and of the view that the damages awarded are fair and just, for, the appellant has not been able to establish on record as to how much he has incurred, as that amount could have been adjusted while determining the damages towards the mental agony and botheration. In the absence of the same, Courts below by looking photographs and damage, assessed the compensation.

The appeal is also accompanied by applications for condonation of delay of 58 days in filing and 157 days in refile of the appeal. The explanation lacks reasonable cause and bona fide.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact rendered by the Courts below, much less, no substantial question of law arises for

determination by this Court. No ground for interference is made out.

Resultantly, the second appeal is dismissed both on the ground of delay as well on merit.

(AMIT RAWAL)
JUDGE

February 01, 2019

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No