

RSA Nos.3407 of 2017 & 1870 of 2018 (O&M)

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

Date of decision : 22.02.2019

1. RSA-3407-2017 (O&M)

Avtar Singh

... Appellant

Versus

Bant Singh (deceased) through LRs

... Respondent

2. RSA-1870-2018 (O&M)

Ajaib Singh

... Appellant

Versus

Bant Singh (deceased) through LRs

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ravneet Singh Joshi, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

CM-8209-C-2017 IN RSA-3407-2017

CM-5212-C-2018 IN RSA-1870-2018

CM-5213-C-2018 IN RSA-1870-2018

For the reasons stated in the applications, which are supported by the separate affidavits, the delay in filing and refiling the appeals is condoned.

CM stand disposed of.

CM-5214-C-2018 IN RSA-1870-2018

For the reasons stated in the application, which is duly

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supported by an affidavit, the legal representatives of respondent No.1 are ordered to be brought on record for the purpose of prosecuting the appeal.

MAIN CASES

This order of mine shall dispose of two regular second appeals, at the instance of the appellant-plaintiff, bearing **RSA No.3407 of 2017** titled as **“Avtar Singh V/s Bant Singh (deceased) through LRs”** arising out of the decision of Civil Suit No.10 of 2012, seeking recovery of ₹70,000/- as compensation and **RSA No.1870 of 2018** titled as **“Ajaib Singh V/s Bant Singh (deceased) through LRs”** arising out of the decision of Civil Suit No.135 of 2011, seeking recovery of ₹1,00,000/- as compensation.

The facts are being taken from RSA No.3407 of 2017.

The case set out in the aforementioned plaint is that the plaintiff had purchased the land, vide sale deeds dated 20.05.2003 and 24.05.2006 and had submitted an application for obtaining the electricity connection. Bant Singh/defendant filed a suit against Ajaib Singh, father of the plaintiff-Avtar Singh and Electricity Board, seeking injunction, for not erecting the poles on his land. It was alleged that the defendant, after erection of the poles, dismantled the electric connection, resulting into, disruption of electricity supply, on 26.12.2009. The appellant-plaintiff was prevented from drawing the water from the tubewell, in the absence of the electricity supply.

The defendant opposed the suit and denied the alleged dismantling of the electric connection.

The trial Court on the basis of the evidence brought on record dismissed both the suits, aforementioned, and the appeals laid before the lower Appellate Court were also dismissed.

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Mr. Ravneet Singh Joshi, learned counsel appearing on behalf of the appellant-plaintiff in both the appeals, submitted that against the illegal act of defendant, DDR bearing No.18 of 22.09.2009, was lodged and even the writ petition was also filed before this Court for issuing the direction to the Electricity Department to supply the electric connection and in those proceedings, the defendant was directed to file an affidavit that he would not cause any obstruction in the electricity supply. All these factors reveal that there was a loss. The defendant had also come out with a plea that a sum of ₹7,000/- was paid. The Courts below have not noticed the aforementioned facts, resulting into, dismissal of the suits, as umpteen number of documents i.e. jamabandis, receipts of electric connection, photographs, have been placed on record.

I am afraid the aforementioned argument is not sustainable in the eyes of law, as filing of the suit by Bant Singh and statement suffered by Avtar Singh, are not in dispute. Despite the compromise, the plaintiff lodged the DDR, which compelled Bant Singh to file the civil suit, wherein the plaintiff suffered a statement and the suit, aforementioned, was withdrawn. The filing of the present suit was an afterthought as it was filed in the year 2012. It is matter of record that the plaintiff admitted that he had been irrigating the land through canal water. For claiming the damages, evidence of crops having been damaged, has not seen the light of the day. No report of the Tehsildar or the local Panchayat has been placed on record. Once the liquidated damages in terms of money are sought, the aforementioned evidences are essential and necessary requirement. Placing on record the jamabandis reflecting the land holdings and payment of electricity connection, would not be sufficient piece of evidence for

determination of the compensation.

In this view of the matter, I do not find any illegality and perversity in the judgments and decrees of the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the present regular second appeals are dismissed.

22.02.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓
Whether speaking/reasoned Yes/ No
✓
Whether Reportable Yes/ No