

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

**RSA No.4529 of 2017 (O&M)
Date of decision:17.05.2019**

Pritam Singh and others

... Appellants

Vs.

Harpal Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. H.S.Saggu, Advocate
for the appellants.

AMIT RAWAL J.

The appellant-plaintiffs are in regular second appeal against the concurrent findings of fact and law whereby suit for damages suffered on account of injuries by the defendants, has been dismissed.

The plaintiffs in the aforementioned suit alleged that on 4.7.2002, with the intervention of the relatives, the matter was compromised in respect of legal proceedings but the defendants again started the partition proceedings and had been extending threats of forcible dispossession and also filed civil suit which was also dismissed. In appeal, the status quo order was passed. However, on 4.07.2011, the defendants tried to forcibly dispossess the plaintiffs from the suit land being accompanied by bad elements armed with weapons and caused injuries resulting into registration of FIR No.83 dated 4.7.2011 under Sections 307, 323, 506, 148, 149 of Indian Penal Code.

The defendants opposed the suit and alleged that partition application submitted before the revenue officer was accepted and warrants of possession were issued. It was the plaintiffs who resisted the possession and caused injuries upon the defendants. Despite the fact, mutation was also sanctioned. Even the persons injured were also examined.

The plaintiffs in support of the pleadings examined one witness Harnam Singh, plaintiff no.3 and tendered jamabandi as Ex.P1, girdawari as Ex.P2, compromise as Ex.P3 and also certain other documents spanning upto Ex.P73. On the other hand, defendants examined one witness and brought on record Ex.D1 to Ex.D4 including the judgment and decree.

Mr. H.S.Saggu, learned counsel appearing on behalf of the appellant-plaintiffs submitted that in fact, at the appellate stage, an application was filed for withdrawal of the suit to file the fresh one with better particulars as the counsel in the trial Court did not draft the suit properly or led evidence. Permanent disability certificate of Harnam Singh has also not been noticed in correct perspective and thus, urged this Court for setting aside the findings under challenge.

I have heard the learned counsel for the appellant-plaintiffs, appraised the judgments and decrees of the Courts below and of the view that there is no force and merit in the submissions of Mr. Saggu, for, no doubt, the judgment, Ex.P1, cannot be said to be conclusive evidence for claiming the damages as no doctor has been examined or loss of income and loss of reputation during the period the appellants remained admitted in the hospital, such like evidence has been brought on record. Mere tendering of

the relevant judgment cannot be a ground for claiming the damages in view of the law laid down by the Hon'ble Supreme Court in **West Bengal State Electricity Board vs.Dilip Kumar Ray 2007(1) SCT 385, 2007 AIR SC 976.**

As an upshot of my findings, arguments of Mr. Saggu, have not been able to bring the case within the realm of illegality and perversity to form a different opinion than the one arrived at by the Courts below. No substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 17, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No