

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 2165 of 2022 (O&M)****Date of Decision: 13.07.2023**

Nihal Singh and Others

... Appellant(s)

Versus

Karam Singh

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Rajinder Singh Malik, Advocate
for the appellant(s).

Mr. Hardip Singh, Advocate
for the respondent.

Anil Kshetarpal, J.

1. This second appeal has been filed by the plaintiffs in order to challenge the correctness of the judgment and decree passed by the First Appellate Court. Originally, their suit for grant of decree of permanent injunction restraining the defendants from digging the earth without leaving at least 10 feet wide area out of the land owned by the defendants was decreed. However, the First Appellate Court reversed the judgment and decree passed by the trial Court.

2. On 17.10.2022, the following order was passed:-

“Learned counsel for the appellant/plaintiffs states that his suit for permanent injunction was decreed by the trial Court and respondent/defendant was restrained from digging the land adjoining to the suit land since there is likelihood of loss and injury to the plaintiff. These findings have been reversed by the

Lower Appellate Court without looking into the said aspect. He further submits that even an FIR has been lodged against the defendant for carrying out the illegal digging of land.

Notice of motion for 25.01.2023.

In the meanwhile, respondent/defendant is restrained from digging earth without leaving 10 feet wide earth out of the land comprised in khasra No.1318/597 (4-0), 1316/596 (3-0), 1314/595 (3-0) owned by him.”

3. The learned counsel representing the defendant (respondent herein) submits that the defendant has already completed the digging work and he has no further plan to carry out any further digging.

4. The prayer in the suit was to grant injunction. Once the learned counsel representing the defendant submits that the defendant does not wish to carry out any further digging, hence, the suit as well as the appeal are rendered infructuous.

5. Keeping in view the aforesaid facts, the present appeal is dismissed as having been rendered infructuous.

6. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

July 13, 2023
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No