

S.B.Civil Second Appeal No.150/2005

Nand Lal

vs

Kishan lal

DATE OF ORDER : - 30.8.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr.RR Vyas, for the appellant.

Mr.Sajjan Singh, for the respondent.

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Heard learned counsel for the parties.

The appellant-plaintiff is aggrieved against the judgment and decree passed by the two courts below by which the appellants suit and the appeal have been dismissed by the two courts below.

Brief facts of the case are that plaintiff filed the suit for damages on the ground that because of the act of the defendant about 40 to 50 persons climbed over the house of the plaintiff to search of thief and in that process they caused damages to the property of the plaintiff. The plaintiff pleaded that there is enmity between the plaintiff and the defendant and because of this reason only he created this situation.

The defendant submitted written statement and pleaded that they cannot be held responsible for any damages caused to the property of the plaintiff because there was seen of the coming of some thieves

and because of that reason the neighbours climbed over the house of the plaintiff. The defendant cannot be held responsible for all these damages if plaintiff has suffered.

The two courts below after appreciation of the evidence and after taking into account the relations between the plaintiff and the defendant held that plaintiff failed to prove that defendant was the person instrumental in creating the seen causing the damages to the property of the plaintiff. These concurrent finding of fact is sought to be challenged by the appellant on the ground that since the damages of the property of the plaintiff is admitted fact and enmity between the plaintiff and defendant has been proved, therefore, the defendant is liable to pay the compensation to the plaintiff. The finding of fact recorded by the two courts below about the intention of the defendant cannot be interfered by appreciation or re-appreciation of the evidence in second appeal. No substantial questions of law are involved in this appeal.

Hence, the appeal of the appellant is dismissed.

(Prakash Tatia), J.

c.p.goyal/-