

**IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.**

RSA No. 265 of 2006.

Judgement reserved on:

Date of decision : July 31, 2006.

Superintending Engineer Appellant.
-------------------------	-----------------

Vs.

Salig Ram & anr. Respondents.
------------------	--------------------

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the appellant:	Mr. Ashok Chaudhary, Additional Advocate General.
---------------------------	---

For the respondents:	Mr. Lalit Sehgal, Advocate, vice Mr. Harish Dod, Advocate, for respondent No.1.
-----------------------------	---

Surjit Singh, J. (Oral).

Heard and gone through the record. Respondent No.1, hereinafter referred to as plaintiff, is having some property above the National Highway No. 22 in Kumarsain Tehsil. In the year 2001, the appellants, hereinafter referred to as defendants, while widening the National Highway allegedly did not take any precautionary steps, with the result that the land of the respondent- plaintiff situated above the National Highway slipped and a large number of fruit trees standing on that land were damaged. Suit was filed by the

Whether reporters of local Papers may be allowed to see the judgment?

respondent- plaintiff, seeking mandatory injunction, directing the appellants- defendants to construct a Danga all along the excavated site of his property and also to pay damages, as the court might assess.

The appellants- defendants contested the suit. They alleged that due precautions were taken while carrying out the widening work of the National Highway. They, however, did not deny that some fruit trees standing on the land of the respondent-plaintiff were damaged.

Trial court framed various issues arising out of the pleadings and passed a decree of mandatory injunction as asked for by the respondent- plaintiff and also awarded a sum of Rs. 1,00,000/-, as damages. The trial court has awarded the damages on the basis of the report of a Horticultural Expert, which in turn is based on the formula of Sardar Harbans Singh. As per said Expert, damage to the fruit plants was to the tune of Rs. 10,000/- and odd. Appellants- defendants went in appeal to the first appellate court. Their appeal stands dismissed.

Grievance of the appellant is that when the expert had assessed the loss/ damage to the fruit plants, to the tune of Rs. 10,000/- and odd, the two courts below were not justified in awarding a sum of rupees one lac, by way of compensation.

I have perused the record and heard the learned Additional Advocate General. Though in the judgement of the trial court, no reason has been given for awarding a sum of rupees one lac, as compensation, against the loss assessed at Rs.10,000/- and odd by the Horticultural Expert, yet the first appellate court, in its judgement has given the reasons. According to the first appellate court, the loss assessed by the Horticultural Expert is based on the formula of

Sardar Harbans Singh, which was evolved in the year 1966 and, therefore, it is based on the prices then prevailing and that ever since the evolution of that formula, price index has increased many fold and by the year 1989, it had increased five-fold when the High Court of Punjab & Haryana in **Ranjit Singh vs. The Union Territory, Chandigarh,** [1983 Revenue Law Reporter (P&H) 451], increased the quantum of compensation, assessed by an Expert for damage to the fruit trees on the basis of the said formula, by 500 per cent. The first appellate court has observed that in 2001, when the respondent's fruit plants were damaged, the increase had gone up by about ten times. Though the first appellate court has not referred to the price index itself, I do feel that by 2001, the increase in price index might have been ten times the price index of the year 1966.

For the foregoing reasons, I see no merit in the appeal. In any case, no substantial question of law is there. Hence, the appeal is dismissed.

CMP No. 420 of 2006.

Infructuous.

**July 31, 2006.
(Hem)**

**(Surjit Singh),
Judge.**