

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR-225-2015

Date of decision: 13.1.2015

Ranjit Singh

..... Petitioner

Versus

Daroga Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

PRESENT: Mr. Akash Singla, Advocate for the petitioner.

R.P. NAGRATH, J. (ORAL)

The petitioner has invoked revisional jurisdiction of this Court under Article 227 of the Constitution of India for setting aside the order dated 14.11.2014 (Annexure P-2) passed by the learned Additional District Judge, Sangrur whereby appeal against the order dated 22.10.2012 (Annexure P-1) passed by the learned Civil Judge (Junior Division) Dhuri, on application made under Order 39 Rules 1 and 2 of the Code of Civil Procedure (CPC) was allowed.

I have heard learned counsel for the petitioner and carefully perused the orders of both the Courts below and the paper-book.

The Appellate Court observed as under:-

“7. Admittedly, electric connection is running in Khasra No. 129//7 (2-8). The entries of jamabandi for the year 2007-08 reveal that plaintiffs as well as defendants No. 1 and 2 are co-sharers along with other co-sharers in the land measuring 19 kanals 08 marlas, which includes the above mentioned land in which the connection is installed. Plaintiff Daroga Singh has purchased land measuring 06 marlas from Dhanna Singh, who is another co-sharer in the joint land. In the column of possession, Dhanna Singh son of Chhaju Singh and Hari Singh son of Harnam Singh i.e. defendant No. 2 is recorded to be in possession of this land. These entries prove that the plaintiffs are co-sharers in the land in which the electric connection is installed. The plaintiffs are yet to prove by leading evidence that they are entitled to be declared co-sharers and joint possession of the electric connection. They have placed on record an affidavit of defendant No. 1 Ranjit Singh, wherein he has admitted that the electric connection in dispute is jointly owned by all the four brothers and they are entitled to use the same for irrigating their land. He has also stated that the amount of security of this connection was deposited by the father of the parties, who has died and that after the death of their father, the parties are the legal heirs

being sons of deceased Harnam Singh. I am of the opinion there is a prima facie case in favour of the plaintiffs, as they are co-sharers in the joint land and defendant Ranjit Singh has admitted that the plaintiffs are entitled to use the connection as per their share. In case, the defendants obstruct the plaintiffs from the said connection for irrigating their land, they will suffer an irreparable loss, as their crops are likely to get damaged. The balance of convenience, in my opinion, is also in favour of the plaintiffs. It is prima facie proved that all the four brothers are entitled to use the electric connection till the disposal of the present suit. The electric connection is in the name of defendant No. 1 Ranjit Singh. This fact is not disputed by the plaintiffs. This defendant has admitted the rights of the plaintiffs in the connection in his affidavit. Thus, it is not prima facie prove that the defendant No. 1 alone is the owner of the connection, though he is recorded as consumer in the record of defendants No. 3 and 4.”

Learned counsel for the petitioner contends that claim of plaintiff-respondents No. 1 and 2 in the suit filed by them was that they are in exclusive possession of khasra No. 129//7/2-8 situated in the revenue estate of Village Herike over which the electric motor connection No. AP-22/2663/HK is in existence. That is, however, a disputed fact to

be determined on merits of the case but from the perusal of record, it is *prima facie* made out that parties are jointly recorded as owners being co-sharers and accordingly, the Appellate Court, rightly held that in view of the fact that the plaintiffs being co-sharers they cannot be prevented from using the said electric motor connection which is existing in the name of petitioner, as per their share.

There is no illegality or perversity in the impugned order (Annexure P-2), rather that was the appropriate recourse adopted by the Appellate Court while disposing of the appeal. How an injunction for use of electric connection existing in the land showing jointly in the names of parties could have been refused?

Dismissed.

Before parting with the order, it deserves to be noted that if the petitioner is aggrieved by any act of the plaintiff-respondents No. 1 and 2 whereunder he is preventing from use of the electric motor connection, the petitioner would be at liberty to file appropriate application for grant of *ad-interim* injunction before the trial Court by claiming similar relief.

January 13, 2015
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(R.P. NAGRATH)
JUDGE