

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR No. 3364 of 2015 (O&M)

Date of decision: 18.05.2015

Jaswinder Singh

... Petitioner

versus

Bhulla Singh

.... Respondent

**CORAM: HON'BLE MR. JUSTICE K. KANNAN**

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Present: Mr. Satbir Rathore, Advocate for the petitioner.

**K.Kannan, J.**

The petitioner is the plaintiff who sought for injunction with reference to electricity tube well connection for the property which he claimed he owned in joint ownership with his brother. The defendant contended that the property owned by him and the tube well connection were separate and the connection had been given to him on an express no objection given by the plaintiff that the separate electricity connection could be issued in the name of the defendant. The defendant had also filed before the trial Court, while disposing for the application that there was a document of partition between them that was executed in the year 1985 allowing for the parties to enjoy properties separately.

The trial Court made reference to the fact that the revenue records had entered the plaintiff and the defendant to be a joint owners of property in Khasra No. 757 and stating the law that if one of the joint owners was installing the tube well, it must only be taken as available for the benefit of the parties jointly and upheld the claim of injunction, restrained the defendant from disconnecting the power supply and if disconnected already, for a direction for restoration of such supply.

The Appellate Court reversed the decision of the trial Court on two grounds, one, the plaintiff had suppressed the existence of

partition list brought about in the year 1985, two, the plaintiff had himself given no objection to the Electricity Department for issuance of separate electricity supply in the name of the defendant. The court below also observed that the plaintiff had not pleaded anywhere that he had no other source of irrigation of his land and there being no scope for irreparable loss, declined the relief of injunction and set aside the order passed by the trial Court.

Learned counsel for the petitioner states that the partition list was not found referred to in the statement. The defendant has himself applied for partition before the revenue authorities and it is still pending. He picks out the decisions referred to by the trial Court including the decision in Gopi Ram Vs. Shyam Sunder and others, 2006 2 FLR 718, to contend that the possession of two brothers which is taken to be joint must also secure to them the benefit of tube well connection obtained for the properties held jointly, even when the connection is taken in the name of anyone of the co-owners.

I must observe that the absence of pleadings with reference to the partition list cannot be taken as very significant in this case since the suit was not with reference to the land. The claim for injunction was with reference to an apprehended injury of the defendant for causing disconnection to the electricity supply. The subject matter of the suit must be, therefore, only taken as the tube well connection. When an unregistered partition list of the year 1985 was filed before the trial Court, he was merely referring to the fact that the electricity connection that he had obtained on the no objection given by the plaintiffs himself was with reference to the land which he had separated from his brother and therefore there was no prime facie case for the plaintiff to contend that the electricity connection was to be used jointly by both the brothers. The presumption that would be possible in the manner contemplated in Gopi Ram's case (Supra) would be when the properties are held jointly in common and the connection obtained in the name of one member would endure the benefit to others as well. It cannot be

extended in situations where subject matter of the suit is itself only the electricity connection which is not in the name of the plaintiff but in the name of the defendant and that too obtained in his name on an express no objection given by the plaintiff. I have not been shown through any rule or instruction from Electricity Department that prohibits issue of connection in favour of the brother as joint owners. I do not also have materials to show that no objection given by him was with reference to property admittedly held in common by the brothers. The Lower Appellate Court held that there was no prima facie case for the plaintiff to sustain the relief of injunction and it had adequate reasons to set aside the order passed by the trial Court.

The intervention in revision ought to be confined only to situations where the impugned order suffers from a serious vice in setting out a proposition or the error in reasoning that would deserve a reconsideration and reversal of such ruling. If two views are possible and a particular view has been taken by the Lower Appellate Court, it ought to stay and would require no intervention.

The civil revision petition is dismissed with above observations.

18.05.2015

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**(K.KANNAN)**  
**JUDGE**