

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 3359 of 2010
Date of decision : September 18, 2015

Ram Saran

..... Appellant

Versus

UHBVNL, Panchkula and others

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Rakesh Nagpal, Advocate
for the appellant.

Mr. Sudhir Hooda, Advocate
for respondent Nos. 1 and 2.

Mr. Aayush Gupta, Advocate
for respondent Nos. 3 to 13.

1. Whether reporters of 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?

Amit Rawal, J (oral).

The challenge in the present appeal is to the impugned judgment and decree dated 20.2.2010 passed by the lower appellate court whereby the judgment and decree dated 2.9.2008 decreeing the suit of the appellant-plaintiff, has been set aside.

Learned counsel for the appellant-plaintiff submits that the plaintiff had applied for electric connection for tube well which was issued in November, 1982. It is only in 2001 the plaintiff acquired the knowledge that defendant No.3-Bharthu predecessor-in interest of defendant No.1 got changed the electric connection in his

name by filing an affidavit, even an FIR bearing No. 16 dated 5.2.2002 in this regard, was also lodged. During the pendency of the FIR, Bharthu died, therefore, nothing survived in the FIR.

He submits that the electric connection has been issued at a tubewell and the land on which the tube well is installed has fallen to the share of the defendants in a pre-emption suit which has attained finality upto the Hon'ble Supreme Court . The title of the electric connection would also devolve upon the defendants and in these circumstances the suit for mandatory injunction on 15.6.2004 was filed. The trial court on the basis of the oral and documentary evidence found that the electric connection bearing AP-9/3603 sought to be decreed in the name of the plaintiff was without the consent of the plaintiff as the connection could not have been transferred in favour of Bharthu (since deceased) and rightly so decreed the suit.

Mr. Sudhir Hooda, learned counsel appearing on behalf of respondent Nos. 1 and 2 and Mr. Aayush Gupta, learned counsel for respondent Nos. 3 to 13 submit that the suit was ex-facie time barred, inasmuch as, the connection was transferred on 10.8.1992. The suit has been filed only in June, 2004 by coining a story of acquiring the knowledge of transfer in the year 2001.

They further submit that the lower appellate court reversed the judgment and decree of the trial court on the premise that since the tube well was constructed on the land which had fallen to the share of defendant in a pre-emption decree, tube well would also fall in the ownership of the defendant, therefore electric

connection issued to the tube well and not in the name of appellant-plaintiff.

I have heard learned counsel for the parties and appraised the paper book.

The lower appellate court while allowing the appeal and setting aside the decree, found that the suit was barred by limitation. No evidence has been lead on behalf of the plaintiff to prove that the affidavit was forged and fabricated, much less no explanation has come forth in filing a suit, claiming declaration in the year 2004 in respect of cause of action or an act, allegedly arose in the year 1982.

I do not find any illegality or perversity in the aforementioned judgment and decree of the lower appellate court.

No substantial question of law arise for determination by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

September 18 , 2015
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