

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

RSA No.4246 of 2013(O&M)  
Date of decision: 19.10.2015

Gurpal Singh

... Appellant

Versus

Karanjit Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. BPS Virk, Advocate for the appellant.

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

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ARUN PALLI J. (Oral)

Suit filed by the plaintiffs was decreed by the trial court vide judgment and decree dated 02.02.2001. As even an appeal preferred against the said decree failed and was dismissed vide judgment dated 01.03.2013, Gurpal Singh, one of the legal heirs of defendant No.3- Sham Kaur, is before this court vide this regular second appeal. Parties to the lis, hereinafter, would be referred to by their original positions in the suit.

In a suit filed by the plaintiffs, they prayed for a decree for injunction, restraining defendants No.1 & 2 from disconnecting the motor connection bearing A/c No.DA-2084 of 12.5 HP, installed in the land bearing khasra No.31//8(7-0),

situated at village Duggal Kalan, Tehsil Samana, District Patiala. It was maintained that plaintiffs had purchased a land measuring 72 kanals from defendants No.3 & 4, Babu and Bittu sons of Chatin Kaur daughter of Narinder Kaur vide sale deed dated 20.10.2004, along with a motor connection in question that was running in the name of defendant No.3. Defendant No.4, being the attorney of defendant No.3, had also executed an affidavit of an even date for transfer of the motor connection in the names of the plaintiffs. Plaintiffs also purchased a land measuring 64 kanals 0 marla from defendant No.4 and his brother Gurpal Singh vide another sale deed dated 25.11.2004. And, mutations pursuant to these sale deeds have since been sanctioned in favour of the plaintiffs. Since then, plaintiffs have continuously been irrigating their fields with the aid of motor connection in question, as they had no other source of irrigation. For, during the pendency of the suit, motor connection was disconnected, plaintiffs amended the plaint and also prayed for a decree for mandatory injunction, directing defendants No.1 & 2 to restore the connection.

In a joint written statement, filed by defendants No.1 & 2, it was pleaded, inter alia, that the plaintiffs had no locus standi, as they were not the consumers. In a separate written statement filed by defendant No.3, it was maintained that she never authorized defendant No.4 to alienate the motor

connection. And, thus, defendant No.4 had no right to execute the affidavit dated 20.04.2005. Gurtej Singh was alleged to have obtained the power of attorney from defendant No.3 by fraud and subsequently, the alleged power of attorney was revoked on 13.07.2005.

On a due and thoughtful consideration of the matter in issue, and the evidence on record, both the courts concurrently concluded that the plaintiffs purchased a land measuring 72 kanals, pursuant to a registered sale deed dated 20.10.2004 (Ex.P9) along with the motor connection in question. Sale deed (Ex.P9) was executed by defendant No.4, who was not only the son of defendant No.3 but also her duly constituted attorney, vide power of attorney dated 11.10.2004 (Ex.P7). Gurtej Singh-defendant No.4 had also executed an affidavit dated 20.10.2004 (Ex.P3), in favour of the plaintiffs, attested by the Executive Magistrate, Patran, to transfer the connection in favour of the plaintiffs. Although, defendant No.3 revoked the power of attorney (Ex.P7), subsequent to the execution of the sale deed, on 13.07.2005, but the sale deed dated 20.10.2004, was never questioned. Gurtej Singh, who was arrayed as defendant No.4 in the suit, did not choose to contest the proceedings. Thus, execution of the sale deed (Ex.P9) and affidavit dated 20.10.2014 (Ex.P3) remained uncontroverted. Though, defendant No.3 had denied the execution of the sale deed (Ex.P9) and alleged the same to be a

result of fraud, but strangely in a suit filed by defendant No.4- Gurtej Singh i.e. Civil Suit No.229 of 20.07.2005, in replication (Ex.P26), execution of sale deed dated 25.11.2004 (Ex.P11) as also the sale deed dated 20.10.2004 (Ex.P9) in favour of the plaintiffs, was duly conceded. Though, defendant No.4 and his brother Gurpal Singh (appellant) had denied to have sold even the motor connection. Not just that, evidence on record revealed that the plaintiffs had completed all the formalities to get the motor connection transferred in their favour. Indemnity bonds (Ex.P6) were duly executed in this regard. And, receipt (Ex.P16) showed that even the transfer fee stood deposited. However, instead of transferring the motor connection in favour of the plaintiffs, defendants No.1 & 2 rather ordered disconnection. That being so, defendant No.3 was estopped by her own conduct from raising any objection as regards formal transfer of motor connection in the names of the plaintiffs. Likewise, she had no locus to get the said connection disconnected on the basis of a Panchayatnama dated 28.06.2005 (Ex.D1). That being so, it was concluded that the entire exercise as regards disconnection was resorted to by the official defendants in collusion with defendants No.3 & 4, for extraneous consideration, to the detriment of the plaintiffs. Evidence on record showed that since the date of purchase of the land, plaintiffs have been irrigating their fields with the aid of the motor connection in question. All the

receipts/electricity bills, Ex.P16 to Ex.P25, all this while, were paid by the plaintiffs. Thus, plaintiffs were held entitled to the decree for permanent injunction, as also a decree for mandatory injunction, directing defendants No.1 & 2 to restore the motor connection.

Learned counsel for the appellant simply seeks to reiterate the submissions that were advanced before the courts below and rejected after a due and comprehensive consideration. It could not be pointed out as to how the conclusions that had concurrently been recorded by both the courts were either contrary to the position on record or suffered from any material illegality. No other argument was advanced.

In the wake of the position as set above, there hardly exists any ground, least plausible in law, to interfere with the decree being assailed. No question of law, much less any substantial question of law, arises for consideration. Appeal being devoid of merit is accordingly dismissed.

October 19, 2015  
Rajan

( Arun Palli )  
Judge