

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**RSA No.1706 of 2015 (O&M)  
Date of decision: 17.07.2015**

**Raghbir Singh and others**

**...Appellants**

**versus**

**Jujhar Singh and others**

**...Respondents**

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Ms. Madhuri Pundir, Advocate,  
for Mr. Ranjan Lakhanpal, Advocate,  
for the appellants.

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**RITU BAHRI, J.**

**CM Nos.4686-4687-C of 2015**

For the reasons mentioned in the application, same are allowed and delay in filing and refiling the appeal is condoned.

**RSA No.1706 of 2015**

Plaintiff-appellants have come up in regular second appeal against the judgment of reversal dated 02.09.2011 passed by the Additional District Judge, Sangrur, accepting the appeal filed by the defendants-respondents against the judgment and decree dated 05.08.2008 passed by the Civil Judge (Junior Division), Dhuri and dismissing the suit of the plaintiffs.

Plaintiff-appellants filed a suit for declaration stating therein that Nahar Singh son of Gurnam Singh was co-owner in the land measuring 89 Bighas 5 Biswas, situated in the revenue estate of village Bhalwan. He had obtained an electric motor connection bearing a/c No.J-160 of 3 BHP, which

was installed in the land bearing Khasra No.22/9/7-0, situated in the revenue estate of village Bhalwan. Said Nahar Singh had died on 19.04.1975 leaving behind the plaintiffs and defendant No.4 as his legal heirs and they became owners in possession of the aforesaid motor connection. In this regard, mutation was also sanctioned in their favour. On 29.12.1987, Jujhar Singh-defendant No.1 made an application to A.E.E., Sub Division, Dhuri and got the connection in dispute transferred in his name at the back of the plaintiffs and defendant No.4 in connivance with the electricity board. At the time of change of name of Nahar Singh to the name of Jujhar Singh-defendant No.1, neither any notice was served upon the plaintiffs nor any publication was in the newspaper. The officials of the electricity board had transferred the aforesaid electric connection on false and frivolous application made by defendant No.1 and allotted a new account No. J-494. The plaintiffs-appellants came to know regarding change of name of electric motor and connection in dispute from the name of Nahar Singh to the name of defendant No.1, when he (defendant No.1) sold his property to Paramjit Kaur-defendant no.3 and when she started proclaiming herself to be the owner of said connection.

On notice, the defendant-respondent Nos.1 to 3 filed joint written statement and took preliminary objections with regard to limitation, locus standi and maintainability of the suit. On merits, it was submitted that a family settlement had taken place between Nahar Singh and Jujhar Singh in the year 1970 and the land in which electric motor was installed, fell to the share of Jujhar Singh along with the electric connection. After the death of Nahar Singh, plaintiff Nos. 1 and 2 had obtained new electric connection bearing a/c No. J-364 in the land, which fell to the share of their father in the

year 1982. The said connection was obtained in the name of Gurmeet Singh. After the family settlement, Jujhar Singh got the power of electric connection bearing a/c No. J-160 increased from 3 BHP to 5 BHP. In the year 1988, the electric connection in dispute was changed from the name of Nahar Singh to the name of Jujhar Singh and a new a/c No. J-494 was allotted. It was submitted that the plaintiffs and defendant No.4 had no concern with the electric motor in dispute.

Defendant Nos.5 and 6 filed separate written statement and controverted the allegations levelled by the plaintiffs-appellants in their plaint.

From the pleadings of the parties, following issues were framed by the trial Court:-

1. Whether the transfer of the motor connection bearing account no.J-160 (new account no. J-494) from the name of Nahar Singh @ Nar Singh to the name of defendant No.1 Jujhar Singh is illegal, null and void? OPP
2. Whether the defendant No.1 Jujhar Singh had no right to transfer the motor connection bearing account no. J-494 to defendant No.2 and therefore, the transfer of tubewell connection in the name of defendant No.2 by the PSEB authorities is liable to be set aside? OPP
3. Whether the plaintiffs and defendant No.4 have inherited the motor connection in question from their father Nahar Singh @ Nar Singh son of Gurnam Singh and they are now owners in possession in equal shares of the same? OPP
4. Whether the plaintiffs are entitled for the relief of permanent

injunction for restraining the defendant No.2 from transferring the motor connection bearing new account No. J-672 and old account no. J-494 and J-160 in the name of any other person and also for restraining the defendants from getting the motor connection shifted from the existing place to any other place and also restraining the defendants from interfering in the peaceful use of the motor connection by the plaintiffs? OPP

5. Whether the defendant No.1 Jujhar Singh received the motor connection bearing account no. J-160 from his brother Nahar Singh @ Nar Singh through family settlement deed dated 10.05.1970? OPD

6. Whether the suit of the plaintiffs is barred by limitation? OPD

7. Whether the plaintiffs are estopped from filing present suit as their predecessor-in-interest Nahar Singh @ Nar Singh never raised any objection regarding the motor connection in question? OPD

8. Whether the plaintiffs have no locus-standi and cause of action to file the present suit? OPD

9. Relief.

Trial Court, after going through the evidence on record, decreed the suit of the plaintiffs-appellants for declaration and permanent injunction restraining defendant No.2 from transferring the motor connection bearing a/c No.672 to the name of any other person and from getting the same shifted from its existing place to any other place. He was also restrained from causing any obstruction in the use of the motor by the plaintiffs and defendant No.4.

The lower appellate Court, on appeal, reversed the findings of the trial Court and dismissed the suit of the plaintiffs-appellants. While accepting the appeal, it was observed that as per judgment (Ex.D2) passed in civil suit titled as 'Raghubir Singh and others Vs. Jujhar Singh and others', it was held that an oral partition had been arrived at between the parties. The oral partition had been exhibited as Ex.D1 in that suit. Copy of decree sheet had been proved as Ex.D3. Pursuant to an application, permission for withdrawal of the suit was granted by the Additional District Judge, Sangrur. Raghubir Singh while appearing as PW-1 admitted that an oral family partition had been arrived at and a memorandum qua the said partition was also executed. He had identified the signatures of his father and deposed that the land was initially joint amongst Nahar Singh and Jujhar Singh. He further admitted that his uncle-Jujhar Singh had sold his land with “electric connection” to Paramjit Singh. Same land was again sold to Paramjit Kaur and her husband Balwinder Singh vide registered sale deed dated 28.12.2001. In his cross-examination, the said witness admitted that the electric connection was transferred in the year 1987 and his father Nahar Singh, during his lifetime, had not raised any objection to the family settlement. He further admitted that the family settlement was executed on 10.05.1970. He identified the signatures of his father on the said settlement. He stated that the writing was scribed by Nachattar Singh. He also identified the signatures of Jujhar Singh. Pursuant to an application made in the year 1987, the electric connection was transferred in the name of Jujhar Singh in the year 1988.

After going through the impugned judgment passed by the lower appellate Court, no illegality, much less perversity has been found therein,

warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

**(RITU BAHRI)**  
**JUDGE**

17.07.2015

ajp