

RSA No.293 of 2015 (O&M)

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

RSA No.293 of 2015 (O&M)

Date of Decision: October 21, 2015

Kundan Singh through his LRs Budh Singh & another

...Appellants

Versus

Chairman, Punjab State Electricity Board, Patiala & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. S.K. Mahajan, Advocate
for the appellants.

AUGUSTINE GEORGE MASIH, J. (Oral):

CM No.776-C of 2015

Exemption is granted from filing the certified copy of judgment and decree dated 11.02.2013 passed by the trial Court and Annexures A-1 and A-2 are taken on record, subject to all just exceptions.

Application stands allowed.

RSA No.293 of 2015

Challenge in this appeal is to the judgment and decree passed by the Additional Civil Judge (Senior Division), Baba Bakala, dated 11.02.2013, vide which, suit for permanent injunction restraining defendants No.1 to 3, from transferring/shifting/disconnecting tube-well connection No.F-445, installed in Khasra

No.22/19/2(4-3) situated in village Mattewala, Tehsil Baba Bakala, District Amritsar, at the instance of defendant No.4-Phuman Singh, brother of the plaintiff, stands dismissed and appeal against the same preferred by the appellant-plaintiff has been dismissed by the Additional District Judge, Amritsar, on 21.08.2014.

The claim of the appellant-plaintiff was based upon the partition and the relinquishment which was asserted to be an affidavit dated 03.06.1987. The execution of the said affidavit has not been duly proved. It has come on record in the detailed discussion of the Courts below that the alleged affidavit is not an attested document by any attesting authority. It can be at the most treated as writing but since execution has not been proved, the same cannot be relied upon. Further, the partition which is sought to have taken place in the year 1987, has not been got mutated in the revenue records by the appellant-plaintiff. The suit of the appellant-plaintiff is also barred by limitation as the declaration has been sought to an act which had taken place in the year 1987 and that too, based upon a document dated 03.06.1987, whereas, the suit preferred is in the year 2005. The alleged thumb impression on the writing (Ex.P-1) has also not been proved to that of respondent No.4-Phuman Singh especially when it has been denied by him in his pleadings. The Courts below have rightly appreciated the pleadings and the evidence brought on record which can neither be said to be misread nor misconstrued.

Both the Courts below have returned concurrent findings

RSA No.293 of 2015 (O&M)

after proper appreciation of evidence which do not call for any interference of this Court as there is no perversity or illegality in the same.

No substantial question of law arises in the present appeal which requires consideration of this Court. Therefore, finding no merit in the present appeal, the same stands dismissed.

CM No.775-C of 2015

In view of the order passed in the main appeal, the present application for stay has become infructuous.

Disposed of as such.

October 21, 2015

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**