

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

115

Regular Second Appeal No.1912 of 2014 (O&M)
Date of Decision: September 17, 2015

Pala Singh

...Appellant

Versus

Kala Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Dolly Shivani, Advocate
for Mr. Mandeep Singh Sodhi, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASI, J. (ORAL)

CM No.4677-C of 2014

Prayer in this application is for condonation of delay of 49 days
in filing the appeal.

For the reasons mentioned in the application which is duly
supported by the affidavit of the applicant-appellant, the same is allowed.

Delay of 49 days in filing the appeal stands condoned.

RSA No.1912 of 2014

Challenge in this appeal is to the dismissal of the civil suit by
judgment and decree dated 09.11.2011 passed by the Additional Civil Judge
(Senior Division), Ferozepur, preferred by the appellant-plaintiff for a
decree of declaration to the effect that he being the owner in possession of
the tubewell electric connection bearing account No.C3-507 of 3 BHP
motor installed in the land, detailed in the heading of the suit, situated in
village Dona Mattar, Tehsil and District Ferozepur with consequential relief
of permanent injunction restraining respondents-defendants from shifting
the said electric connection to anyone else, against which the appeal

preferred by the appellant-plaintiff also stands dismissed by the District Judge, Ferozepur, on 24.10.2013.

2. It is the contention of learned counsel for the appellant-plaintiff that the appellant-plaintiff had bought the electric connection from respondent-defendant No.1 on 07.09.1992 and in acknowledgment thereof, the said respondent-defendant had given an affidavit dated 07.09.1992 Exhibit P-1. As per the said affidavit, the appellant-plaintiff has become the owner of the electric connection and, therefore, was entitled to the declaration as prayed for, specially when the said electric connection has been transferred by installation of the tubewell in the land owned by the appellant-plaintiff. She contends that the judgments and decree passed by the Courts below, therefore, cannot sustain.

3. This contention of learned counsel for the appellant-plaintiff cannot be accepted in the light of the fact that the alleged affidavit dated 07.09.1992 executed by Kala Singh son of Bishan Singh respondent-defendant No.1 has not been properly executed as the same bears the thumb impression of respondent-defendant No.1 only on the verification part thereof. There is no thumb impression on the part of the affidavit which depicts the factual position regarding transaction which is alleged to have taken place between the appellant-plaintiff and respondent-defendant No.1. The said affidavit, therefore, cannot be said to confer any right upon the appellant-plaintiff. That apart, the appellant-plaintiff has not approached respondents-defendants 2 and 3 for transfer of the electric connection in his name since the year 1992 till the filing of the suit which was more than 15 years. The inordinate delay in this regard also casts doubt about the assertion of the appellant-plaintiff. Further the appellant-plaintiff has failed

to prove on record that the electric connection was shifted and motor installed in the land which is owned and possessed by him.

4. Both the Courts below have returned concurrent findings after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

5. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

6. In the light of the dismissal of the appeal itself, the application for stay i.e. CM No.4678-C of 2014, also stands disposed of as infructuous.

September 15, 2015

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**