

Sr. No.107

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

**RSA No.3837 of 2014 (O&M)
Date of Decision.19.10.2015**

Puran Singh

.....Appellant

Versus

Surjit Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

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?

Present: Mr. Rajbir Singh, Advocate,
for the appellant.

K. KANNAN J. (ORAL)

CM No. 8922-C of 2014

For the reasons mentioned in the application, delay of 16 days in re-filing the appeal is condoned.

Application stands disposed of.

RSA No. 3837 of 2014

Plaintiff who filed the suit for injunction restraining the issuance of electricity connection for a 3 BHP motor in favour of the 4th defendant at the instance of defendants No. 2 and 3 who are electricity authorities. The electricity connection had been applied officially in the name of first defendant father. The suit was instituted on 26.04.2005 and it was clear at the time of trial itself that electricity

connection had been issued in the name of the 4th defendant in the year 2005. At the time of trial, the plaintiff wanted to contend that the original application had been in the name of first defendant father and after his death, all the legal representatives expressed themselves as consenting parties to allow for the first defendant to take the electricity connection in his name. The plaintiff entered into an agreement of purchase on 25.12.2001 from the first defendant the right to obtain the electricity. In defiance of the obligations the first defendant was attempting transfer it to 4th defendant although the plaintiff had actually made an additional deposit necessary for securing the connection.

The first defendant denied that he had ever entered into an agreement and the matter that fell for consideration was whether the agreement was true. The plaintiff examined a witness in the agreement but the Court held that it was not sufficient for proof of the agreement. It was looking for corroborative proof by eliciting whether the plaintiff was the owner of the property for which electricity connection was sought. The plaintiff was making reference to an alleged oral partition and the Court observed that such exclusive possession had not been proved. The Court also took notice of the fact that the plaintiff had not even applied to the Electricity Board on the basis of the alleged agreement while issuing an electricity connection in his name. The Court took note of the fact that electricity connection had also been issued in the name of 4th defendant even in the year, 2005 and the relief of injunction as a preventive measure, in the manner sought for could not be given and

declined the relief.

At the appellate Court, the plaintiff had sought to bring an amendment for mandatory injunction for electricity connection and for declaring that the property belonged to him. The Court rejected the application and dismissed the appeal also.

In the first place, I must observe that electricity connection is a facility and not a property to be declared in favour of plaintiff except for the purpose of securing consent so that the owner of the facility viz the Electricity Corporation could issue such a connection. If the person who had to transfer an application or the connection that stood in his name to yet another and committed a breach, the remedy would be to sue for damages and a relief of injunction especially in a situation where the connection had also been issued could not be taken to be an efficacious remedy. I will not force an issue relating to the electricity connection to be issued through an adjudicatory process and leaving the plaintiff the liberty to apply for connection for the property which he owns independently through an application to Electricity Board and if such an application is given, the authorities will consider the plaintiff's priorities in its usual turn and issue a connection subject to the rules and regulations. The plaintiff will also be at liberty to seek for damages if ever the plaintiff makes out a case of breach of contract by the first defendant. If such a plea were to be made by an independent action, it will be considered on its own merits subject however to the claim being tenable and within the time.

The appeal filed by plaintiff is dismissed as not requiring

any adjudication on question of law with liberty to the plaintiff to work out independent remedies with the manner indicated above.

19.10.2015
vandana

(K. KANNAN)
JUDGE