

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

**CR No.3065 of 2016 (O&M)**

**Date of decision:28.07.2016**

Sachin Sharma

... Petitioner

Vs.

Avinash Sharma (deceased) through LRs ... Respondent

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Veneet Sharma, Advocate  
for the petitioner.

**AMIT RAWAL J.**

Petitioner-plaintiff is aggrieved of the impugned order dated 16.04.2016 (Annexure P-6), whereby, miscellaneous appeal filed against the order dated 02.12.2015 (Annexure P-5), vide which application seeking restoration of the electricity connection allowed by the trial Court, has been dismissed.

Mr. Veneet Sharma, learned counsel appearing on behalf of the petitioner-plaintiff submits that grand-father of the petitioner Lachman Dass was owner of house bearing no.22-B, Shastri Colony, Ambala Cantt, as per the Assessment Register of the Municipal Corporation (Annexure P-1). Petitioner got married in the year 2000 and out of the wedlock two daughters were born. One daughter of the petitioner aged about 16 years is studying in 10+1 and the other daughter aged about 3 years is studying in Nursery Class.

The petitioner constructed the 1<sup>st</sup> Floor of the house from his own funds as the marriage of younger brother Jatin took place in February, 2014 and thereafter, he along with his wife and children shifted to the Ist

floor of the house. The brother of the petitioner Jatin insisted the father to file a civil suit for permanent injunction dated 18.12.2014 against the petitioner and his wife regarding the house in question belonging to the brother of respondent Arun Kumar, who had transferred the same vide gift deed dated 11.12.2014. In order to safeguard his possession, he filed a suit for permanent injunction on 10.02.2015 and the trial Court ordered to maintain status quo. In order to harass the petitioner and his family, the respondent on the instigation of brother of the petitioner and his wife, disconnected the electricity connection. In this regard, an application dated 28.10.2015 (Annexure P-4) was filed for restoration of the electricity connection and also placed on record the documents in the form of Ration Card, Aadhar Card, Voter Card and Birth Certificate of the daughters of the petitioner. The trial Court, vide order dated 02.12.2015 (Annexure P-5), granted liberty to the petitioner to apply for separate electricity connection subject to the clearance of previous arrears of the electricity bill of the premises in question. The petitioner deposited the entire arrears of the electricity. The aforesaid order was challenged by the respondents by filing an appeal before the Lower Appellate Court for setting aside the order of the trial Court as the order is wholly perverse and based upon the misreading of the documents. In fact, the respondent is playing in the hands of the brother of the petitioner and his wife and in these circumstances trouble started brewing. It is yet to be determined and decided whether the house in question is ancestral or not. The Lower Appellate Court has erroneously misread the documents, i.e., application filed under Sections 4 and 23 of the Maintenance & Welfare of Parents and Senior Citizen Act, 2007

(hereinafter referred to as “2007 Act”). In fact, the same was dismissed by the Tribunal, vide order dated 15.05.2015. The Lower Appellate Court has not taken into consideration the fact that disconnection of the electricity connection would make it impossible for the petitioner, his wife and two minor daughters to live in the house and thus, urges this Court for setting aside of the order of the Lower Appellate Court and restoration of the order of the trial Court.

I have heard the learned counsel for the petitioner-plaintiff and appraised the paper book and of the view that there is no merit and force in the submissions of Mr.Veneet Sharma.

The categoric stand of the respondent, i.e., father of the petitioner in the written statement was that petitioner along with family members had been staying in the rented accommodation. It has further been stated that plaintiff started collecting building material for raising the construction over the first floor of the house without the consent. It was objected to and the plaintiff and his wife threatened. In this regard, an application under Sections 4 and 23 of 2007 Act, as mentioned above, was filed and the Tribunal directed the SHO concerned to provide protection to the defendant. The stand in the written statement was that the property was not ancestral but transferred by Arun Kumar, brother of the defendant vide gift deed dated 11.12.2014.

It is also a matter of fact that electricity and water connection are in the name of the respondent-defendant, who is paying the electricity charges. The plaintiff is not owner of the property and therefore, he has no right to seek permission for installation of the electricity connection. The

respondent had taken advantage of the order of the trial Court without consent of the owner of the property. No consent/writing had been taken. It is prerogative of the owner of the property to discontinue the consent at any stage of the property. In this matter, it is the son, who is not respecting his father and the father has to be treated like God and to be respected but should not be indulged into litigation. It has become common practice that children, after marriage, started asserting the right in the self acquired property of the father and on ill-advice institute the suit without knowing the concept of coparcenary or ancestral property. The old ailing parents are being dragged in Courts and in this contest Legislature came out with 2007 Act.

I cannot remain oblivious of all these aforementioned facts. Rather, the order of the trial Court granting permission to the respondent to obtain electricity connection would further give right of raising construction without the consent of the father or the respondent. Once the property is owned by the father, possession of the son is only permissive and license can be revoked at any stage. This view of mine is supported by the law laid down by the Hon'ble Division Bench judgment of this Court in **Gurpreet Singh vs. State of Punjab and others 2016(1) R.C.R.(Civil) 324.**

The order of the Lower Appellate Court, in my view, is perfect, legal and justified, whereby, the direction has been issued to the concerned electricity department to do the needful, if the same is installed on first floor portion of house in the name of the respondent.

In view of the aforementioned observations, I do not find any illegality and perversity in the order under challenge, much less, the same

cannot be said to have been passed without jurisdiction.

Accordingly, the revision petition stands dismissed.

Nothing observed herein above, shall not be construed as an expression of opinion on the merits of pending suit.

(AMIT RAWAL)  
JUDGE

July 28, 2016  
savita

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |