

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

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Civil Revision 5032 of 2016 (O&M)
Date of decision: 09.08.2016

Gurdeep Singh and another *Petitioners*

Versus

Ranjit Singh and others *Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. NPS Mann, Advocate
for the petitioners

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Rekha Mittal, J.

The present petition lays challenge to orders dated 10.08.2015 passed by Civil Judge (Junior Division) Samrala, Ludhiana and dated 31.05.2016 passed by Additional District Judge, Ludhiana whereby application filed by the petitioners for ad-interim injunction was dismissed by the trial Court and the order passed by the trial Court, has been affirmed in appeal.

Counsel for the petitioners would urge that a suit for declaration was filed by the petitioners on the premise that Sunder Singh son of Gurdit Singh, father of petitioner No. 2 and grandfather of petitioner No. 1, respondents No. 6 and 7 was owner of electric motor connection bearing No. C-3750 of 3 BHP installed in killa No. 22. Gurbachan Singh and Harbhajan Singh inherited property of Sunder Singh measuring 23 kanals 12 marlas comprised in killa No. 16//21, 22 and 23 situated at village Madpur, Tehsil Samrala, District Ludhiana from Sunder Singh. Out of said

land, Gurbachan Singh and Harbhajan Singh transferred 5 kanals land vide sale deed dated 21.12.1993 in favour of deceased Mohinder Singh, father of respondents No. 1 and 2 and grandfather of respondent No. 3 along with 1/5th share i.e. proportionate share of electric motor connection and accordingly, respondents No. 1 to 3 are entitled to 1/5th share of electric motor connection. Petitioner No. 2 vide sale deed dated 29.04.2002 transferred 6 kanals 6 marlas of land along with proportionate share of electric motor connection i.e. 1/5th share in favour of respondents No. 4 and 5. Gurbachan Singh and Harbhajan Singh got half share of electric motor connection out of 3/5th share after the death of Gurbachan Singh along with respondents No. 6 and 7, legal heirs of Gurbachan Singh on the basis of registered Will dated 27.11.2013. The petitioners got load of electric connection increased from 3BHP to 5 BHP in the year 2004 and deposited Rs.2,400.00. They have also installed a new electric motor and a new bore by spending Rs.50,000.00 approximately in the month of July 2004. It is argued with vehemence that as respondent Nos. 1 to 3 were allowed proportionate share of electric motor connection to the extent of 1/5th, their claim that they have 1/3rd share in the said connection, is unfounded and liable to be rejected. To substantiate his contention, counsel has submitted that respondents No. 1 to 3 are trying to take advantage of tampering made in sale deed dated 21.12.1993 wherein the original recital was “along with share of motor of 3 Horse Power” and by tampering the same reads as “along with share of motor 1/3rd share Horse Power”.

I have heard counsel for the petitioners and perused the paper book particularly the orders impugned.

The learned trial Court has held that in the sale deed, share of

father of defendants No. 1 and 2 and grand father of defendant No. 3 has been mentioned as 1/3. The plaintiffs have not produced any copy of sale deed in which share of electric motor has not been mentioned as 1/3. Further, held that contention raised by the petitioners mentioning a wrong figure of share as 1/3 in the sale deed can be decided on the basis of evidence yet to be adduced by the parties. The Court of appeal has affirmed the findings of the trial Court with the observations that, at this stage, it cannot be said that figure 1/3 mentioned in the sale deed qua electric motor is the result of tampering or not and the same is a matter of evidence.

Along with the petition, Xerox copies of the original sale deed (Annexure P3) and certified copy of said sale deed (Annexure P2) have been placed on record. The documents are not clearly legible. From the documents produced on record, it is difficult to record a positive finding, at this stage, that the contesting respondents have tampered with the sale deed as has been sought to be contended by the petitioners. The Courts below have rightly held that the question of tampering propounded by the petitioners can only be decided after permitting the parties to adduce their respective evidence. There is nothing on record suggestive of the fact that since purchase of land in the year 1993, the predecessor-in-interest of contesting respondents or after his death, the respondents had been using only 1/5th share of electric motor connection in question as against 1/3rd.

This apart, interference in the orders passed by the Courts below while disposing of the application for grant of ad interim injunction is warranted only if the orders are found to be perverse or the same have been passed by disregarding some materials on record having strong bearing on merits of application. In the given facts and circumstances, I do not find

any illegality much less perversity in the impugned orders as would call for intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed. However, nothing stated in this order shall be construed as an expression of opinion on merits of the controversy at the time of final disposal of the suit.

(Rekha Mittal)
Judge

09.08.2016
mohan bimbura

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No