

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

RSA-2887 of 2015 (O&M)

Date of decision: 08.04.2016

Gurmeet Singh and another

...Appellants

Versus

Hardeep Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Gorakh Nath, Advocate
for the appellants.

Jitendra Chauhan, J. (Oral)

The suit for permanent injunction filed by the appellant/plaintiffs (for short 'the appellants') was dismissed by the trial Court, vide judgment and decree dated 07.03.2014.

2. Aggrieved against the judgment and decree of trial Court, the appellants filed an appeal which was dismissed by the learned 1st Appellate Court, vide judgment and decree dated 26.05.2015.

3. The 1st Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the

oral as well as documentary evidence on record, hence, the instant appeal has been filed by the plaintiffs.

4. The brief facts of the case are that the appellants and respondents No.1 & 2 are brothers and used to cultivate the land jointly after the partition of the land. The land bearing khasra No.98//10 along with other land had fallen to the share of the appellants. The possession had been delivered to each co-sharer and the entries of the khasra girdawaris were also recorded in the name of the appellants. The appellants had installed tubewell bore in killa No.98//10 and also got installed electric tubewell connection No.K2/1984 in the name of respondent No.1 in the above said land. The appellants have incurred the expenses to the extent of $\frac{2}{3}$ rd share and respondents No.1 & 2 had spent $\frac{1}{3}$ rd share for obtaining the electric tubewell connection. The joint land of the parties comprises of two parcels known as 'sua wala tuk' and 'tibbe wala tuk'. The land situated in 'sua wala tuk' is being irrigated as per their shares with the electric connection in dispute. The appellants have land measuring 41 kanals in 'sua wala tuk' and the respondents No.1 & 2 have 21 kanals of land in that tuk. The appellants have sown paddy crop in the said land and require water to irrigate the crop. However, the respondents

No.1 & 2 want to shift the electric connection without the consent of the appellants.

5. It is contended that both the Courts have erred in not considering the fact that parties to the suit are real brothers and it is the a general practice amongst farmers to get the electric connection in the name of one of the co-sharer. In the present case also, the electric tubewell connection was obtained in the name of respondent No.1, Hardeep Singh. The appellants have also paid 2/3rd share in securing the electric connection in dispute, however, both the Courts below have failed to consider the above aspect of the matter.

6. Heard, the learned counsel for the appellants and perused the record.

7. The dispute is amongst the brothers regarding shifting of electric tubewell connection No.K2/1484. Admittedly, the land of the parties situated in two parcels had been partitioned with the orders of competent Courts, in the year 1997. Hakam Singh, the father of the parties, died in the year 1996. It is also admitted that the appellants had installed tubewell bore in khasra No.98//10 in the year 2004. The appellants have alleged that the said connection was got released in the name of respondent No.1

and they have also spent 2/3rd amount on the same. However, there is nothing on record to prove that the appellants have also incurred 2/3rd share in the electric connection. As per written statement of respondents No.3 to 5, the electric connection in dispute is in the name of respondent No.1 and he had deposited the necessary charges, got prepared the estimate and connection was shifted on the asking of respondent No.1. This fact had been duly substantiated through receipts Ex.D6 to Ex.D10, vide which respondent No.1 Hardeep Singh had been making the payment of the various charges for shifting and subsequent payment of charges etc. Further, no evidence or document has come on record to prove that the disputed electric connection is installed in khasra No.98//10, which had fallen to the share of the appellants. No doubt, as per testimony of PW-4, Jatinder Pal Verma, Advocate, who was appointed as Local Commissioner, whereby he proved his report Ex.P5 and stated that an electric connection was installed in khasra No.98//10, but it has not come on record that the same connection was bearing account No.K2/1484, which stand in the name of respondent No.1, Hardeep Singh. Therefore, in the absence of any document or evidence on record that the electric connection was jointly

owned by the parties or it was installed in khasra No.98//10, this Courts feels that both the Courts below have dealt the issues in right perspective. Thus, in these circumstances, this Court finds no merit in the argument raised by learned counsel for the appellant. No substantial question of law arises. Accordingly, the present appeal fails and the findings recorded by both the Courts below are hereby affirmed as such.

Dismissed in limine.

08.04.2016

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(JITENDRA CHAUHAN)
JUDGE