

RSA No. 2256 of 2014 (O&M)

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

RSA No. 2256 of 2014 (O&M)

Date of Decision: February 17, 2016

Yad Ram & another

...Appellants

Versus

Jagdish

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sanjay Mittal, Advocate
for the appellants.

AUGUSTINE GEORGE MASIH, J. (Oral):

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division), Rewari, dated 21.10.2011, whereby, the suit for permanent injunction restraining the appellant-defendants from interfering in the use and joint possession of the tube-well connection No.N-42, preferred by the respondent-plaintiff stands decreed, appeal against which preferred by the appellant-defendants has been dismissed by the District Judge, Rewari, on 17.12.2013.

It is the contention of learned counsel for the appellants that in the light of an admitted fact that the parties are in their respective possessions of the properties and therefore, there is a partition of the suit property which was around 50-60 years back, the tube-well connection which is in the name of father of appellant No.1-

Yad Ram and the said connection is in the land which is in possession of the appellant-defendants, the said connection was for exclusive ownership and use by the appellant-defendants and therefore, the findings as recorded by the Courts below cannot sustain.

This contention of the learned counsel for the appellants cannot be accepted in the light of the fact that there is no date forthcoming which would indicate as to when the mutual arrangement/partition has taken place between the parties especially when the revenue records still show the joint possession of the property. Even the date on which the tube-well connection was applied for and sanctioned has not come on record. The conclusions in the given facts and circumstances as drawn by the Courts below that the connection was not in the exclusive ownership of the appellant-defendants, thus, cannot be faulted with and injunction has, therefore, been rightly granted to the respondent-plaintiff.

A perusal of the impugned judgments would show that the concurrent findings returned by both the Courts below are based on proper appreciation of the pleadings and the evidence brought on record which do not call for any interference by this Court as there is no misreading or non-consideration of the material on record nor is there any perversity or illegality in the same.

No substantial question of law arises in the present appeal which requires consideration of this Court. Therefore, finding

RSA No. 2256 of 2014 (O&M)

no merit in the appeal, the same stands dismissed.

CM No.5463-C of 2014

In view of the order passed in the main appeal, no order is required to be passed in the present application as the same has been rendered infructuous.

Disposed of as such.

February 17, 2016

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**