

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

RSA-5128-2015(O&M)

Date of decision : 27.01.2016

Paramjit Kaur

... Appellant

Versus

Dalbir Singh

... Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. R.K. Arya, Advocate
for the appellant.

REKHA MITTAL. J.

The present regular second appeal lays challenge to judgment and decree dated 08.01.2015 passed by the Additional District Judge (A), Gurdaspur, affirming the judgment and decree dated 20.07.2013 passed by the Civil Judge (Junior Division), Batala whereby the suit filed by the appellant-plaintiff has been dismissed throughout.

The appellant has claimed that he purchased land measuring 19 kanals detailed in the plaint along with tubewell connection No.G-575 of 7½ BHP according to her share purchased from the vendors for using tubewell for irrigating land purchased vide sale deed dated 23.02.2007. The original owners also sold some land out of their joint khata to the respondent and right of irrigation from the same tubewell connection was also given to him. It is further averred that the respondent is a head strong person and is not allowing the appellant to use the tubewell for irrigating

her fields. She has no source of irrigation except the tubewell in question.

The respondent filed the written statement contesting the claim of the appellant and controverting her entitlement to seek injunction as prayed for. It is averred that the appellant has intentionally suppressed material facts regarding a similar suit having been filed by her in the Court of Sh.Tejinderbir Singh, Civil Judge (Junior Division), Batala in which the stay was declined by the court and the said suit was later withdrawn on 16.07.2008. It is further averred that the appellant has concealed the actual and true facts with a malafide motive as she is not a party to the alleged sale deed and she has been set up by Kashmir Singh, her husband to file the present suit. The alleged tubewell is located in khasra No.17R/16(8-0) and the electric connection was in the name of Fakir Chand, a consumer / licensee of the PSEB. After death of Fakir Chand, one Gian Chand son of Fakir Chand came in possession of khasra No.17R/16 along with the tubewell connection. Vide sale deed dated 29.06.2005, Gian Chand sold said khasra number along with tubewell and some other land to the respondent. The respondent applied for transfer of connection in his name, deposited ₹1500/- vide receipt No.518 dated 21.02.2006 and another ₹7500/- vide receipt dated 22.03.2006 by way of requisite fee and on completion of other formalities, the State Electricity Board gave electric connection and issued a new passbook to the respondent vide order dated 27.03.2006 and new No.G-844 was allotted to the respondent in place of the previous number G-575 and since then,

the respondent is the holder of the disputed electric connection and the appellant has got no right or claim over the said connection.

The learned trial court rejected claim of the appellant-plaintiff by taking into consideration the pleadings of the parties, the evidence on record by holding that the respondent purchased the land along with tubewell connection prior to purchase of land by the appellant and the appellant was not a co-sharer at the time of purchasing of land by the respondent. The respondent has got changed the tubewell connection after depositing the necessary charges and the appellant is not privy to the contract between the respondent and the Electricity Board. It was further held that tubewell connection has been transferred in the name of the respondent on 23.03.2006 and a new connection bearing No.G-844 has been allotted and connection bearing No.G-575 of 7.5 BHP was not in existence when the suit was filed. Counsel for the appellant has not pointed out any factual error in the findings recorded by the Courts. That being so, I do not find any error much less illegality in the judgments impugned. As a result, neither any substantial question of law arises for adjudication nor there is any other valid ground to interfere in the well founded findings recorded by both the courts.

For the foregoing reasons, finding no merit, the appeal is dismissed in limine. No order as to costs.

January 27, 2016.

Davinder Kumar

(REKHA MITTAL)
JUDGE