

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

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Regular Second Appeal No.548 of 2015 (O&M)
Date of Decision: March 03, 2016

Harbans Singh

...Appellant

Versus

Senior Engineer, Punjab State Electricity Board, Ferozepur Circle,
Ferozepur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Nakul Sharma, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.1553-C of 2015

Prayer in this application is for exemption from filing the true typed/certified/photocopies of judgment and decree dated 15.07.2013 passed by Civil Judge (Junior Division), Ferozepur, grounds of appeal filed before Additional District Judge, Ferozepur and judgment and decree dated 15.09.2014 passed by Additional District Judge, Ferozepur and for permission to place on record the same.

Application is allowed.

Exemption from filing the true typed/certified/photocopies of judgment and decree dated 15.07.2013 passed by Civil Judge (Junior Division), Ferozepur, grounds of appeal filed before Additional District Judge, Ferozepur and judgment and decree dated 15.09.2014 passed by Additional District Judge, Ferozepur, is granted subject to just exceptions and the same are taken on record.

RSA No.548 of 2015

Challenge in this appeal is to the judgment and decree dated 15.07.2013 passed by the Civil Judge (Junior Division), Ferozepur, whereby the suit filed by the appellant-plaintiff for permanent injunction restraining

respondents-defendants 1 and 2 not to transfer the motor connection bearing No.A-304 in the name of any other person except the appellant-plaintiff and for directing the respondents-defendants 1 and 2 to transfer the said connection in the name of the appellant-plaintiff on the basis of the registered sale deed dated 24.05.2007 executed by Makhan Singh son of Gulzar Singh-respondent-defendant No.3 through his general power of attorney Karnail Singh son of Makhan Singh-respondent-defendant No.5 in the name of the appellant-plaintiff, situated in the area of Parbhat Singh Wala, Tehsil Jalalabad, District Ferozepur, has been dismissed, appeal against which preferred by the appellant-plaintiff has also been dismissed by the Additional District Judge, Ferozepur, on 15.09.2014.

2. It is the contention of learned counsel for the appellant that except for respondent-defendant No.2, all were proceeded against *ex parte*. Respondent-defendant No.2, the Sub Divisional Officer, Punjab State Electricity Board, Sub Division, Jalalabad, filed a written statement and thereafter, he was also proceeded against *ex parte*. Since no evidence has been produced by the respondents-defendants, the Court could not have taken into consideration the written statement filed by respondent-defendant No.2. He contends that in the absence of any contest to the suit, the suit deserves to be decreed, especially when the appellant-plaintiff had appeared himself as PW-1 and produced the passbook of the motor connection showing existence of the same. In support of his assertion that the electric motor connection was operational, PW-2 Kulwant Singh has also appeared and supported the case of the appellant-plaintiff. He, thus, contends that the findings as recorded by the Courts below cannot sustain and deserve to be set aside and the suit of the appellant-plaintiff decreed.

3. I have considered the submissions made by learned counsel for the appellant and with his able assistance, have gone through the impugned judgments but cannot accept all his contentions.

4. As far as the assertion of the counsel for the appellant that the written statement of respondent-defendant No.2 could not have been taken into consideration for rejecting the claim of the appellant-plaintiff, may be correct but the appellant-plaintiff has to stand on his own feet to prove his case as pleaded but unfortunately, he has failed to do so. It was a positive assertion on the part of the appellant-plaintiff that the motor connection was in working condition at the spot but to prove the said fact, except for the oral statement of the appellant-plaintiff as PW-1 and PW-2 Kulwant Singh, no documentary evidence has been produced on record. The passbook of the electric motor connection which is stated to have been produced, only indicates that there was a motor connection and that too in the name of Gulzar Singh, the original owner of the land prior to his death. No bills or receipts have been produced on record which would indicate that the motor connection was in running condition, as has been asserted. Further the mandate of the statute with regard to the transfer of a connection has to be complied with. Unfortunately, the appellant-plaintiff has not even produced the application which he had filed before the Electricity Board for transfer of the connection in dispute in his name which has been asserted by the appellant-plaintiff to have been returned to him for getting the “No Objection Certificate” from the legal representatives of Gulzar Singh. The Courts below have, therefore, rightly proceeded to dismiss the suit of the appellant-plaintiff.

5. No other point has been raised or argued by the counsel for the

appellant.

6. Both the Courts below have returned concurrent findings after properly appreciating the pleadings and the evidence brought on record by both the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

7. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the appeal, the same stands dismissed.

March 03, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE