

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

**RSA No.1796 of 2015 (O&M)
Date of Decision:08.03.2018**

[Tarsem Singh

.....Appellant

Vs.

Punjab State Corporation Limited and othersRespondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Naresh Kumar Manchanda, Advocate
for the appellant.

RAMENDRA JAIN, J. (Oral)

Unsuccessful plaintiff has preferred this regular second appeal against the judgment and decree dated 09.01.2015, confirming the judgment and decree dated 03.04.2014 of the trial Court whereby his suit for declaration was dismissed.

Briefly stated, the appellant and respondent No.3 are real brothers. According to the appellant, the land in which the tubewell connection was running fell into his share. Therefore, his brother – respondent No.3 sold tubewell connection to the appellant for a sum of ₹50,000/- and executed an affidavit to this effect. The original passbook of the tubewell electricity connection was also handed over to the appellant by his brother- respondent No.3. On the basis thereof, he got extended the capacity of the electricity connection from 5HP to 10HP on payment of requisite fee and expenses to respondents No.1 and 2. Due to cordiality of relationship in between the appellant and his brother, the appellant did not ever thought to get transferred the tubewell electricity connection in his

name in good faith. However, with the passage of time, their relations became strained and both of them went into litigation. Having grudge on this account, the brother of the appellant moved an application to respondents No.1 and 2 to disconnect the tubewell electricity connection on the ground that he was not in need of the same any more, forcing the appellant to file a suit for declaration that he was owner of the tubewell connection No.BW-138-AP installed in Khasra No.530 owned by him and for permanent injunction restraining respondents No.1 and 2 from disconnecting the same forcibly and illegally except in due course of law.

The learned trial Court after holding trial, dismissed the suit with costs vide judgment and decree dated 03.04.2014.

Being aggrieved, the appellant approached the First Appellate Court, but remained unsuccessful as his appeal too was dismissed by the First Appellate Court.

Learned counsel for the appellant inter-alia contends that both the Courts below failed to appreciate that respondent No.3 had sworn affidavit in favour of the appellant, declaring his ownership over the tubewell electricity connection in question, which the appellant was using since last more than 12 years. Both the Courts below also failed to appreciate that respondent No.3 could not have moved application before respondents No.1 and 2 for disconnecting the tubewell electricity connection in question after execution of affidavit in favour of the appellant.

Having given considerable thought to the submission made by learned counsel for the appellant, I find the instant appeal completely devoid of any merit for the reasons to follow:-

(1) No question of law much less substantial arises or raised in the instant second appeal.

(2) The request of transfer of the tubewell electricity connection in question by the appellant to respondents No.1 and 2 on the basis of affidavit without any prescribed application and agreement for transfer duly signed by respondent No.3 was not permissible in view of Rule 38.1 and 39.1 of the Electricity Supply Regulation. Therefore, the affidavit sworn by respondent No.3 in favour of the appellant is meaningless.

I have gone through the judgments of both the Courts below and find no illegality or perversity in the same.

In view of the discussion made above, the appeal is dismissed.

However, in the interest of justice, it is observed that the tubewell electricity connection in question, in case, can be allotted to the appellant on charging the prescribed fees, the officials of respondents No.1 and 2 shall make an endeavour to allot the tubewell electricity connection to the appellant taking a lenient view in favour of the appellant.

March 08, 2018
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(RAMENDRA JAIN)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No