

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

RSA-4238-2015 (O&M)

Date of Decision: February 26, 2018

Darshan Singh

...Appellant

Versus

PSPCL and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Amandeep Singh Manaise, Advocate for
the appellant.

HARINDER SINGH SIDHU, J.

This regular second appeal has been filed against the judgment and decree of the courts below whereby the suit of the plaintiff-appellant has been dismissed.

Plaintiff-appellant had filed a suit for mandatory injunction for directing the respondent-Punjab State Power Corporation Ltd. to transfer the Electric tubewell connection of three H.P. bearing A/c No.AP/20B-431 installed in the name of Narain Singh, deceased father of the plaintiff in the name of the plaintiff. It was pleaded that the father of the plaintiff had got the aforesaid Electric Tubewell connection installed in his name in land comprised in Rect. No.7 Killa No.16 (7-2) situated in the Revenue Estate of Village Chaur Sidhwan, Tehsil and District Gurdaspur. After the death of his father, the plaintiff was in exclusive possession of the land where the electric tubewell connection was installed. His brother, Lakhbir Singh had given a No Objection Certificate for transfer of the tubewell connection in the name of the plaintiff. Hence there was no impediment in the transfer of

the electric tubewell connection in his name.

The case of the respondent on the other hand was that the said tubewell connection had been sold long back on 6.11.1989 by the original consumer Narian Singh in favour of Ajaib Singh son of Charan Singh and the said connection had been shifted in the property of Ajaib Singh in the year 1989. Since then, Ajaib Singh had been running the tubewell and paying the bills regularly without any default. Objection was also taken about not impleading Ajaib Singh in the suit.

On the basis of evidence led by the parties, the learned trial court concluded that the electric tubewell connection had in fact been shifted in the property of Ajaib Singh as per consent given by the original consumer Narain Singh who had sworn an affidavit dated 6.11.1989 to the effect that he had sold the connection to Ajaib Singh and received Rs. 4000/- from him. Since then, the connection has been installed in the property of Ajaib Singh, though the connection still stands in the name of Narain Singh. All the bills thereafter had been paid by Ajaib Singh who also had in possession the original pass-book and receipt of the bills of the tubewell connection. The defendants had also produced the original of the affidavit attested by Narain Singh. The plaintiff also did not lead any evidence to prove that the affidavit was forged or fabricated. Accordingly, the suit was dismissed.

The learned Lower Appellate Court affirmed the finding of the learned Trial Court. It also dismissed an application filed by the plaintiff under Order 41 Rule 27 for leading additional evidence to get the thumb impression of his late father appended on the affidavit compared with his admitted thumb impression.

Finding of fact had been recorded by the courts below based on the

