

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

RSA No.3133 of 2014 (O&M)
Date of decision : 01.11.2018

Pritam Singh (deceased) through LRs and another

...Appellants

Versus

Gurcharan Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Arihant Jain, Advocate and
Mr. Varun Jain, Advocate for the appellants.

Mr. A.K. Garg, Advocate for respondent No.1.

Mr. S.K. Sharma, Advocate for
Mr. Ashok Kumar Sharma, Advocate
for respondent Nos.2 to 4.

Mr. Brij Mohan, Advocate for
Mr. Aman Dhir, Advocate for respondent Nos.5 to 7.

ANIL KSHETARPAL, J.

Arguments were heard. Judgment was reserved. The judgment
is being released.

CM No.3744-C of 2015

Prayer in the application is for producing additional evidence
i.e. registered sale deed dated 27.03.1993 as Annexure "A".

Application is allowed.

Main case

The plaintiffs-appellants through his legal heirs are in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below. This Court allowed the application for additional evidence and permitted the appellants to produce the sale deed dated 27.03.1993 on the file. A report was sought from the Courts below after permitting the parties to lead their additional evidence and counter evidence, if any. Still further, on 14.09.2018, a report was also called from the Tehsildar, Malerkotla after inspecting the site which has been submitted.

Dispute in the present case is with respect to a tubewell and electric connection installed thereon. Originally, the land was undisputedly owned by Sh. Puran Singh. He transferred the land in a family settlement and the defendant-respondent, Gurcharan Singh and his brother Swaranjit Singh became joint owners in possession. The aforesaid family settlement was duly acknowledged in a Civil Court decree passed on 04.08.1980. Mohinder Singh, father of defendant No.1-vendor of the plaintiff, got installed a tubewell and electric connection. The plaintiff claims that Swaranjit Singh had sold his share in the property which was joint including the rights in the tubewell and electric connection installed in khasra No.687/523 and, therefore, he is entitled to a decree for permanent injunction restraining the defendants from alienating, transferring or shifting the electric submersible pump and electric connection.

The defendants contested the suit and pleaded that Mohinder

Singh was never owner of the property in dispute. Mohinder Singh had got digged a tubewell and installed electric motor after obtaining the electric connection. Hence, the electric connection and the motor has been inherited by defendant No.1.

Both the Courts after appreciating the evidence have dismissed the suit filed by the plaintiff. When the plaintiff-appellant appeared in evidence, he stated as under:-

“ My land do not adjoins with disputed land. The motor is running from the last 15/20 years. The earlier bore is out of order for the last 6/7 years.”

It is the case of the defendant that he has got installed a new submersible motor after getting the bore was got digged and electric connection continues in the name of his father.

No doubt in the sale deed, the plaintiff has purchased half share from the brother of the defendant including rights in the tubewell and electric connection, however, as per his own admission, neither the land from where the tubewell is at presence running adjoins his fields nor it has been established that the old tubewell continues to bring water. Rather it is admitted case of the plaintiff that earlier tubewell is lying out of order for the last 6/7 years. In additional evidence, a copy of the sale deed has been produced, however, that would not improve the case of the plaintiff. Still further, it has not been proved on file that the plaintiff contributed equally when the defendants got digged a new tubewell and installed a submersible motor. Although, in oral evidence, the plaintiff has made a statement to that effect, however, no reliable evidence has been produced.

Keeping in view the aforesaid facts, this Court does not find any ground to interfere with the concurrent findings of fact arrived at by both the Courts below.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

01.11.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No