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

**RSA No.4364 of 2018 (O&M)
Date of Decision: 25.07.2018**

**Abdul Sakoor (deceased) through his LRs and others
.....Appellants**

Vs

**SDO (OP) DHBVN Sohna and another
.....Respondents**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Tushar Gautam Advocate
for the appellants.

RAJ MOHAN SINGH, J.

[1]. Plaintiffs/appellants are in Regular Second Appeal against the concurrent judgments and findings of the Courts below in a suit for declaration and permanent injunction (though the prayer was in the form of mandatory injunction.

[2]. Plaintiffs sought to connect the transformer with HT Line for providing electricity to their premises i.e. tubewell connection. Security and other expenses were deposited with the private contractor on the inducement of J.E. Rounaq Ali and Foreman Jasmal, who took the plaintiffs to the private contractor for releasing the connection. The payments were made by the plaintiffs to the aforesaid persons to the tune of approximately

Rs.6,95,000/-.

[3]. Plaintiffs alleged that the private contractors have placed transformers and poles at the site, but electricity connection was not provided. Earlier a petition under Section 22-C of Legal Services Authority Act was filed which was disposed of with a direction to avail remedy before the civil Court.

[4]. In the written statement filed by the defendants existence of self-scheme was admitted and connections were released to the customers, who had deposited the amount with the respondent-Nigam. Evidently, plaintiffs have deposited the amount with the private contractor, who had left the work and fled away without executing the work. FIR was registered against him.

[5]. The plaintiffs could not demonstrate receipt of amount by the defendants-Nigam with reference to any material on record except to show deposit of security fee and other expenses that too as mark-1 to mark-11. Plaintiffs could not even prove the execution of aforesaid documents.

[6]. As per pleaded case of the plaintiffs, J.E. Raunaq Ali and Foreman Jasmal took the plaintiffs to one private contractor namely Ghanshyam, who allegedly gave assurance to them for providing connection. The expenses for putting transformers,

wires and poles etc. were paid by the plaintiffs to J.E. Raunaq Ali. Abdul Sakoor paid an amount of Rs.1,00,000/-, Isha paid an amount of Rs.1,40,000/-, Rajiya paid an amount of Rs.1,25,000/-, Batta paid an amount of Rs.1,25,000/-, Dal Khan paid an amount of Rs.1,00,000/- and Bashiri paid an amount of Rs.1,00,000/-. The private contractor allegedly put transformers, wires, poles without connecting the same with electricity. The connections were not released.

[7]. Plaintiffs did not lead any evidence to show that they had paid any amount to J.E. Raunaq Ali. Raunaq Ali appeared as DW-1 and has denied the factum of receiving any amount from the plaintiffs, rather he stated that the plaintiffs never met him and he was not known to the plaintiffs personally. The receipts Mark-1 to Mark-11 were issued by the Department towards security amount. Since no receipts were issued for the amount allegedly paid by the plaintiffs to the private contractor, therefore, the involvement of Raunaq Ali DW-1 viz.-a-viz. receipts of aforesaid amount could not be brought on record by the plaintiffs.

[8]. The version of PW1 Isha Khan is found to be contradictory with reference to Ex.PW-1/A where he had alleged that the expenses of transformers, wires and poles etc. were paid to J.E. Raunaq Ali, but while appearing as witness, he

stated in his cross-examination that an amount of Rs.1,40,000/- was given to Ghanshyam i.e. private contractor on the asking of J.E. Raunaq Ali. The witness also pleaded ignorance about payment made by other plaintiffs.

[9]. The plaintiffs could not bring on record any material to show that private contractor was authorized by the defendants to collect any expenses towards installation of poles, wires and transformers etc. The facts and circumstances of the case were duly appreciated by the Courts below. The findings recorded on the basis of such appraisal cannot be reappreciated in Regular Second Appeal.

[10]. In view of above, the findings recorded by the Courts below are not found to be on account of any misreading of evidence or having suffered with any perversity. No law point worth cognizance is involved in the present appeal and the same is accordingly dismissed.

[11]. Since the appeal has been dismissed on merits, therefore, there is no necessity of passing any order in the application under Section 5 of the Limitation Act.

July 25, 2018

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No