

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

RSA No.580 of 2018 (O&M)
Date of decision: 04.04.2018

Malkeet Singh

... Appellant

Versus

Darshan Singh

... Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Amit K. Walia, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for permanent injunction filed by the respondent/plaintiff in respect of electric motor connection bearing account No.AP18/1519 was decreed by the trial Court vide judgment and decree dated 05.11.2016 and the appellant/defendant was restrained from interfering in the use of motor connection by the respondent/plaintiff. The appeal preferred by Malkeet Singh-defendant (appellant herein) did not find favour with the Court of Additional District Judge-I, Sangrur whereby findings recorded by the trial Court with regard to entitlement of respondent/plaintiff to get injunction were affirmed.

Still feeling dis-satisfied, the present appeal has been preferred by the unsuccessful defendant/appellant.

Counsel for the appellant would argue that the respondent/plaintiff has not raised a plea as to the Khasra number(s) in which the electric motor connection in question stood installed. It is further argued that Piara Singh, brother of the respondent/plaintiff was in possession of 30 kanal 7 marlas of land as gair marusi and he sold this land along with half share of motor connection vide agreement dated 20.05.2008 and possession was delivered at the spot. On the basis thereof, the appellant became entitled to same rights in the electric motor connection as were available to Piara Singh, brother of the respondent/plaintiff. In addition, it is argued that the respondent/plaintiff executed writing dated 29.01.2007 mark A admitting right of Piara Singh to use the electric motor connection in question for the purpose of cultivating land in his (Piara Singh's) possession, therefore, judgments passed by the Courts suffer from perversity for failure to appreciate the documents i.e. agreement to sell dated 20.05.2008 executed by Piara Singh in favour of the appellant Ex.D1, affidavit by Piara Singh in favour of the appellant regarding his entitlement of half share of motor Ex.D2 and affidavit of respondent/plaintiff Darshan Singh admitting that he (Darshan Singh) and his brother Piara Singh were using the motor connection mark A.

I have heard counsel for the parties, perused the paper book particularly the judgments impugned.

Indisputably, the connection in question was sanctioned by the authority concerned in the name of respondent/plaintiff. As per plea of the

respondent/plaintiff, electric motor connection was installed in land bearing Khasra Nos.207(16-17), 197(8-7), 198(8-1), 207(0-2), 208(4-7), 209(5-6), 210(4-2), 211(7-9) situated at village Kheri Naga, Tehsil Sunam. As per contention of the appellant/defendant, possessory rights in land measuring 30 kanals 7 marlas were transferred by Piara Singh and Dilip Singh sons of Hazare Singh vide agreement to sell Annexure A1. As has been rightly held by the Courts, this agreement cannot be taken into account for want of registration when examined in the light of relevant provisions of Sections 17 and 49 of the Indian Registration Act, reproduced in extenso in judgment of the trial Court. This apart, as Piara Singh was not owner of electric motor connection in question, he could not confer any right qua the connection in favour of the appellant on the basis of agreement to sell Ex.D1 and affidavit Ex.D2. The appellant has failed to prove affidavit allegedly executed by the respondent/plaintiff giving right to Piara Singh to use the motor connection. Even otherwise, if the respondent/plaintiff due to some understanding between the brothers has given right to use the connection in question to Piara Singh, there is nothing on record suggestive of the fact that Piara Singh could further transfer that right in favour of the person to whom he has transferred possessory rights in land, subject matter of agreement of sell, an unregistered document. In this view of the matter, I do not find an error much less perversity in consistent findings recorded by the Courts when otherwise the present appeal does not raise a question of law that needs determination after hearing the contesting party.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine.

No order as to costs.

04.04.2018
ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No