

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.6369 of 2017 (O&M)

Date of Decision: November 28, 2018

Pushp Lata

...Appellant

Versus

Shinder Singh & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Amardeep Singh Gill, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

CM No.16541-C of 2017

For the reasons mentioned in the application, which is supported by an affidavit, delay of 2 days in re-filing the appeal is condoned.

CM stands disposed of.

RSA No.6369 of 2017

Appellant-plaintiff has not been successful in claiming declaration and consequential relief of injunction in respect of the electric motor of 10-HP, submersible bore, alleged to have been purchased from one co-sharer, namely, Swaran Singh along with 1/3rd share in the land. It was alleged that the defendants were causing hindrance in the smooth use of the motor, therefore, cause of action accrued.

Defendants opposed the suit and alleged that the electric connection bearing No.APM5-665 was earlier owned by one Gurbachan Singh and after his death by Lashkar Singh and Jit Singh, thus, Swaran Singh, other co-owner, had no right. It was also asserted that Shinder Singh-

defendant No.1 purchased the electric connection from Lashkar Singh and Jit Singh along with 1/3rd share in the land and the Electricity Board, after having consent of other co-sharers, transferred the connection in his name.

Mr.Amardeep Singh Gill, learned counsel appearing on behalf of the appellant-plaintiff submitted that the courts below have abdicated in not noticing the contents of the sale deed dated 02.08.2010, whereby Swaran Singh, other co-sharer, along with 1/3rd share in the land had sold his share in the electric motor. The defendants had not been able to establish on record any document except an affidavit. Affidavit would not confer the ownership. In such circumstances, the courts below ought to have granted status-quo allowing all the co-sharers to use the electric motor for the purpose of irrigation.

I am afraid that the aforementioned argument is not sustainable as the injunction in the absence of the partition of the suit property having electric connection cannot be granted. The remedy lied elsewhere. The veracity of the affidavit would also be seen in case such proceedings are initiated, but not in the manner and mode as indicated above.

For the reasons stated above, I do not find any illegality or perversity in the concurrent findings of fact and law, which are based on appreciation of evidence. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

November 28, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No

