

111

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

**Civil Revision No.3482 of 2019
Date of Decision: 24.05.2019**

Hari Singh

.....Petitioner

Vs

Pritpal Singh and others

....Respondents

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

Present: Mr. Sanjeev Bishnoi, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this revision petition against the order dated 29.04.2019 passed by the Addl. Civil Judge (Sr. Divn.) Amloh vide which the application filed by the petitioner under Order 6 Rule 17 read with Section 151 CPC for amendment of the plaint was dismissed.

[2]. Brief facts are that plaintiff/petitioner Hari Singh filed a suit for permanent injunction seeking to restrain the defendants/respondents from interfering in the peaceful use of electric motor installed in the land comprised in Rect. No.21//4 (7-17), situated in the revenue estate of village Ladpur, Tehsil Amloh, District Fatehgarh Sahib. The electric motor was installed for irrigation purposes in the joint land as per share in

the land. Plaintiff/petitioner alleged that previously Bhag Singh and Bhagat Singh were joint user of electric connection. They got the aforesaid electric motor installed out of their joint funds. As per norms of the electricity department, the electric connection can be issued only in the name of one person, therefore, the same was got applied through Bhag Singh. The department issued electric connection in the name of Bhag Singh. Although Bhag Singh and Bhagat Singh were in joint use of electric motor connection. For the purposes of irrigation of joint land, electric motor was installed in the joint khewat and the same was only source of irrigation to the joint land.

[3]. Bhag Singh died and his land was devolved upon his sons namely Jangir Singh and Gurdial Singh. Defendants No.1 to 3 are the sons of Jangir Singh. Defendant No.5 is the son of defendant No.4 i.e. Gurdial Singh. All the defendants stepped into the shoes of Bhag Singh. Bhagat Singh also died and his land was devolved upon his heir i.e. Pritam Singh etc.

[4]. Pritam Singh son of Bhagat Singh sold the land measuring 4 Kanals 13 Marlas 3 Sarsahies to the plaintiff/petitioner along with share in electric motor of 5 H.P. vide two different sale deeds i.e. sale deed dated 29.06.2011 for land measuring 2 Kanals 13 Marlas 3 Sarsahies and sale deed dated 27.01.2012 for land measuring 2 Kanals. After the purchase of

the land, plaintiff started irrigating the land through the said electric motor as per his share. There was a *khal* for the purposed of irrigation from the place of electric motor to the land of the plaintiff. Defendants threatened to dismantle the *khal*. Dispute arose between the parties and the suit came to be filed.

[5]. Bhag Singh and Bhagat Singh were co-sharers in the joint land and use of electric motor was a joint venture for the purposes of irrigating their respective shares. Subsequently, Pritam Singh son of Bhagat Singh sold his share to the plaintiff/petitioner. Electric motor was got installed jointly by Bhag Singh and Bhagat Singh. Pritam Singh sold his land along with share in the electric motor in favour of the plaintiff.

[6]. Perusal of the sale deed would show that there was positive recital in the sale deeds in respect of land in question sold by Pritam Singh in favour of the plaintiff along with a recital qua share in electric motor of 5 H.P., security, bore, kotha, khal, water channel, passage, trees etc. The aforesaid recital was on account of consideration of Rs.2,25,000/- passed over to Pritam Singh. Pritam Singh specifically endorsed the factum of jointness of the electric connection and all rights appurtenant to the land viz.-a-viz. electric motor, electric connection, security, bore, kotha, khal, water channel, passage, trees etc. Evidently, the properties have not been partitioned between the parties/co-

sharers.

[7]. Both the Courts below have already granted *ad interim* injunction in favour of the plaintiff/petitioner. Defendants/ respondents remain unsuccessful in CR No.105 of 2016 which was dismissed vide order dated 04.10.2016 passed by this Court.

[8]. Plaintiff sought to incorporate actual account number of electric motor as AP-19/061 in place of AP-19/062 being a typographical omission. Concededly the case has reached the stage of final arguments as both the parties have already concluded their evidence. At this stage of litigation, the proposed amendment does not advance the case of the plaintiff in any manner. With the proposed amendment in the account number of the electric motor, the substantial litigation between the parties would remain unfettered.

[9]. In view of above, I find no justification to interfere in this revision petition. The same is accordingly dismissed.

May 24, 2019

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Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No