

In the High Court of Punjab and Haryana at Chandigarh

**RSA- 4411 of 2019 (O&M)
Date of Decision: 1.10.2019**

DHBVN, Palwal and others

---Appellants

versus

Bijender Singh and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. R.D.Bawa, Advocate and
Mr. Rohit Sharma, Advocate
for the appellants**

Rekha Mittal, J.

Challenge in the present appeal has been directed against concurrent findings recorded by the courts whereby suit for mandatory injunction filed by the respondents-plaintiffs for sanction of tubewell connection was partly decreed by the trial court to the following effect:-

“.....suit of the plaintiff is hereby partly decreed to the effect that defendants are directed to make estimate of the plaintiffs from point A as mentioned in the site plan Ex. P7 and to re-erect AP line from point 'B' to 'A' as already existed before theft as per rules at the earliest.”

The appeal preferred by the appellants did not find favour with the Additional District Judge, Palwal as the first Appellate Court affirmed findings of the trial court without variance.

The sole submission made by counsel for the appellants is that

as there is no connection on AP line from point 'B' to 'A' as of now, there was no requirement for the appellants to re-erect AP line from point 'B' to 'A' as existed before theft, therefore, directions issued by the trial court and affirmed in appeal are contrary to statutory rules/regulations, thus, cannot be allowed to sustain.

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

The trial court, in para 11 of the judgment, has taken note of testimony of a witness examined by the appellants and admission by the said witness that AP feeder from Mandkola to Aurangabad has been stolen and as per site plan Ex. P7, AP line from point A to B has been stolen regarding which FIR has been lodged by SDO Hathin. He further admitted that whatever line is stolen, department restore the same at its own expenses but on that line there is no connection. Once the department had erected AP line from point A to B and the same has been stolen, in absence of referring to any statutory provisions that the department is not obligated to restore the same at its own expenses, I find it difficult to accept contention of the appellants that direction issued by the courts for restoration of AP line from point A to B suffers from a legal flaw much less perversity, warranting intervention.

No other point has been raised.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed.

(Rekha Mittal)
Judge

1.10.2019

PARAMJIT	Whether speaking/reasoned	: Yes
	Whether reportable	: Yes/No