

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

**RSA No.2026 of 2016 (O&M)
Date of Decision.11.03.2019**

Joginder Singh (since deceased) through LRs ...Appellant

Vs

Sukhbir Singh and others ...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sanjeev Kumar Bawa, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.5365-C of 2016

The application for impleading the legal representatives of deceased Joginder Singh is allowed subject to all just exceptions and the legal representatives are ordered to be brought on record for the purpose of adjudication of the present appeal.

RSA No.2026 of 2016

The present regular second appeal is directed against the judgment and decree of the lower Appellate Court whereby the suit of appellant-plaintiff decreed by the trial Court has been dismissed.

The appellant-plaintiff sought the declaration being co-owner on demise of his father Udhey Singh along with defendant No.1 of electric connection bearing Account No.356-AP of 5 HP Motor submersible installed in Killa No.10/1 of Rect. No.4 along with tubewell connection and injunction against defendants No.1 to 4 from causing any obstruction and shifting of the electric connection by defendant No.1 in favour of defendants No.2 to 4 on the premise that the aforementioned connection was in the name of Udhey Singh

and after his demise was liable to be inherited by the appellant-plaintiff and defendant No.1. Since defendant No.1 did not give no objection to the Electricity Department as per rules and regulation, new electric connection could also not be provided.

The aforementioned suit was contested by defendants stating that he purchased the land from Udhey Singh, who suffered affidavit on 30.12.1985 in favour of defendant No.1 regarding the electric connection.

The trial Court noticing all the facts and as well as Will though did not pertain to electric connection, keeping in view intention of the testator, decreed the suit, which has been reversed by the lower Appellate Court.

Mr. Bawa, learned counsel appearing on behalf of the appellant-plaintiff submitted that judgment and decree of the lower Appellate Court is not sustainable in the eyes of law as affidavit dated 30.12.1985 cannot be treated as a sale as the same hit by provisions of Registration Act. Udhey Singh died in 1999 whereas affidavit is of 1985. During all this period, defendant did not take any steps, therefore, there is illegality and perversity.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit, for, the affidavit can also be treated as Will of Udhey Singh as while executing the Will, there was no reflection of the electric connection. The suit arose after death of Udhey Singh. The contents of affidavit clearly indicated intention of the deceased for transferring electric connection in favour of defendant No.1.

In view of such circumstances, judgment and decree rendered by the lower Appellate Court cannot be said to be suffering from illegality and perversity, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

March 11, 2019

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No