

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

**RSA No.1021 of 2021(O&M)
Date of decision:27.10.2021.**

Gurdial Singh

...Appellant

Versus

Darshan Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Naresh Kumar Manchanda, Advocate
for the appellant.**

ANIL KSHETARPAL, J (Oral)

The defendant is in the regular second appeal against the concurrent findings of fact arrived at by the Courts below while decreeing the suit filed by the plaintiff for grant of decree of permanent injunction restraining the defendant from interfering in supply of water from a tubewell installed in a joint unpartitioned land except in due course of law.

The plaintiff (respondent herein) filed the suit claiming that he is a co-sharer in the joint land. The defendant's father was in the Indian Army and for that reason he was entitled to an electric connection for running a tubewell on priority, therefore, an electric connection was issued in his name on joint expenses. Thereafter, the sanctioned load of the electric connection was increased from 5 H.P to 12 H.P. by spending the amount jointly. The plaintiff while apprehending that the defendant wants to stop the supply of water, which is the only source of irrigation, filed the suit.

The defendant contested the suit with the assertion that he is in possession of a separate parcel of land in which the tubewell is installed. He

further claims that the tubewell connection exclusively belongs to him.

Both the courts, on appreciation of evidence, have found out that the plaintiff and defendant are not only related but are also co-sharers. It has been found out that the land measuring 57 kanals 15 marlas jointly owned by the plaintiff and defendant is being irrigated from the tubewell with electricity connection. As per the revenue record, the entire land is irrigated by the tubewell in question.

The learned counsel representing the appellant while referring to the jamabandi for the year 2007-2008, contends that khatauni number of the land in possession of the appellant-defendant is separate from the parcel of the land in possession of the plaintiff. He submits that the appellant is cultivating the land exclusively.

This Bench has heard the learned counsel representing the appellant at length and with his able assistance perused the paper book.

It is well settled that khatauni number has a relation with the cultivation column in the jamabandi. The parties are deemed to be co-owners if the khewat number is one and the same. It is not in dispute that khewat number of the entire land measuring 136 kanals 16 marlas is common. Hence, there is no substance in the first argument of the learned counsel representing the appellant.

Both the Courts, on appreciation of the evidence, have found out that the plaintiff has been irrigating his portion of land from the tubewell in question. In the case of joint land, every co-sharer has a right in its every inch thereof.

Consequently, finding no merit, the appeal is dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

October 27, 2021
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(ANIL KSHETARPAL)
JUDGE

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