

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-1476-2021(O&M)
Date of Order: 01.10.2021

SAJJAN SINGH

..Petitioner

Versus

JASPAL SINGH AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANILKSHETARPAL

Present: Mr. Tribhawan Singla, Advocate
for the petitioner.

Mr. Vishal Sharma, Advocate
for respondent No.1.

Mr. Swati Dayalan, Advocate
for PSPCL.

ANIL KSHETARPAL, J.

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The petitioner is the plaintiff in the original suit. He assails the correctness of the order passed by the learned First Appellate Court reversing the order passed by the trial Court in which an injunction in his favour was granted.

Some facts are required to be noticed.

The plaintiff and Maghar Singh are brothers. Defendant No.1 Jaspal Singh is the son of Maghar Singh. It is the case of the plaintiff that Jaspal Singh applied for a electrical connection for installing a tubewell in the agricultural land in the year 1990. Thereafter, defendant Jaspal Singh agreed to relinquish his rights in the tubewell connection in favour of the plaintiff on receipt of Rs.33,000/-. When the electricity connection was released, the plaintiff paid the amount and the defendant executed a memorandum on 14.11.2005. However, the disputed electricity connection

was issued in the name of the defendant. Thereafter, defendant No.1 also executed one affidavit dated 27.12.2005 after receipt of Rs.33,000/-. The electricity connection bearing No.D-551-AP was issued and the connection was installed on the tubewell located in Khasra No.1025. The defendant No.1-Jaspal Singh also submitted an affidavit dated 22.08.2005, to the defendant-Corporation that he has no objection if the connection is installed on the tubewell situated in Khasra No.1025 instead of Khasra No.1027. Thereafter, the plaintiff has been using the same. In the year 2006, the plaintiff applied for and was granted increased sanctioned load from 5 to 10 DHP on the payment of Rs.6000/-, paid by the plaintiff. The plaintiff prayed that the defendant should be restrained from interfering in the usage of the electricity connection.

The defendant No.1-Jaspal Singh contested the suit with the assertion that neither he has entered any agreement nor he has executed any affidavit. The trial Court had granted an injunction whereas the First Appellate Court has reversed the same. On reading of the order passed by the First Appellate Court, it is clear that the First Appellate Court has set aside the order on the ground that the trial Court wrongly perceived the stand of the official of the Corporation. The Court further held that the original of the affidavit dated 22.08.2005, has not been produced.

Heard learned counsel for the parties at length and with their able assistance perused the paper book.

It may be noted here that the plaintiff-petitioner has also produced another memorandum of family partition executed between the parties on 27.05.2020, i.e. before the order passed by the learned Additional District Judge. In the aforesaid agreement, the parties have noticed that their

joint land has two tubewell electrical connections out of which one has come to the share of the defendant whereas the other has gone to the share of the plaintiff. The correctness of the aforesaid document is disputed before this Court by the respondents.

Furthermore, the plaintiff has produced various documents showing that the rights in the electrical connection were transferred in favour of the plaintiffs by defendant No.1-Jaspal Singh. He has, twice, executed affidavits acknowledging the aforesaid transfer. At this stage, once the defendants already have another connection, the First Appellate Court has erred in reversing the order. No doubt, the learned trial Court did committed an error in wrongly perceiving the stand of the official respondents, however, the plaintiff cannot be punished for the same. As regards the production of the original affidavit, the same can be produced at the stage of leading evidence. Moreover, yet another agreement dated 27.05.2020 is alleged to exist between the parties on the concerned matter.

Hence the order passed by the learned First Appellate Court is set aside and that of the trial Court granting injunction to the petitioner/plaintiff is restored.

With these observations the revision petition is allowed.

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

01st October, 2021

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**(ANIL KSHETARPAL)
JUDGE**

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