

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

CR-2419-2022 (O&M)
Date of decision: 07.12.2022

Sukhjiwan Singh @ Sukhjivan Singh @ Meeta

....Petitioner

Versus

Vijay Kumari and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sarju Puri, Advocate for the petitioner
Mr. Dinesh Nagar, Advocate for respondent no.1
Ms. Ritam Aggarwal, Advocate for respondent no.2 to 4

ANIL KSHETARPAL, J (Oral)

1. The plaintiffs' suit for grant of decree of permanent injunction is pending before the trial court. Along with the suit, they have filed an application for grant of temporary injunction in order to permit them to irrigate their fields from the tubewell having electricity connection in the name of his late brother Sh.Yograj. While contesting, defendant No. 1, namely widow of brother Sh.Yograj, claims that the plaintiffs are guilty of committing theft of electricity by illegally connecting the wire from her tubewell connection. The parties are co-owners in a parcel of an agricultural land. Their tubewell rooms are adjoining each other. The electric connection for the tubewell was issued in favour of late Sh.Yograj as he was an ex-serviceman. Hence, he was entitled to priority. There was no dispute till Sh.Yograj was alive. The plaintiffs claim that this is their only source of irrigation because they have not been allotted any other electric connection. The Punjab State Power Corporation Limited has directed the plaintiffs to deposit penalty

of Rs.1,09,378/-. Learned counsel representing the plaintiffs has submitted that the aforesaid amount has been deposited and a separate suit has been filed by them, seeking refund of that amount, is pending.

2. The trial court as well as the Appellate Court have refused to grant injunction on account of the fact that PSPCL has alleged theft of energy and directed the plaintiffs to pay Rs.1,09,378/-.

3. The livelihood of a farmer depends upon the source of irrigation. Unless they have a proper source of irrigation the farm land cannot be put to a fruitful use. As regards the imposition of penalty, the plaintiffs have already deposited the aforesaid amount. As regards inter se rights between the plaintiffs and defendant No. 1 are concerned, the matter is already pending before the court. At this stage, if the plaintiffs are deprived of their only source of irrigation, hence, they will suffer an irreparable loss. The learned counsel representing defendant no. 1 claims that the plaintiffs can irrigate the land from the diesel pump. However, that solution may not always be economically feasible. Moreover, once there was no dispute till late Sh. Yograj was alive, obviously, there was some kind of understanding between the plaintiffs and his late brother Sh. Yograj.

4. Thus, the plaintiffs have a prima facie case in their favour. The balance of convenience is also in their favour. Moreover, they will suffer an irreparable loss, if they are not permitted to continue to irrigate their land from the abovesaid electric connection. It is not the case of the defendant that the water extracted from the tubewell is not sufficient to

cater to the needs of the families of both the brothers.

5. In view of the aforesaid facts, the orders dated 10.12.2021 and 25.03.2022 are set aside. There shall be an injunction in favour of the plaintiffs to permit them to irrigate their land from electric connection. The trial court is requested to make sincere endeavours for the expeditious disposal of the suit, preferably within a period of one year. The petition stands allowed.

6. Needless to observe that the observations made by this Court, while disposing of the present revision petition shall not be construed to be an expression of opinion on the merits of the case.

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

07.12.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE