

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4177-2023(O&M)
Date of Decision: 20.09.2023.

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Gurmukh Singh and Anr

.....*Petitioners*

Versus

Baljit Singh and Ors

.....*Respondents*

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH.

Present: Mr. Arjunveer Sharma, Advocate for the petitioners.

GURBIR SINGH, J (ORAL)

1. This revision petition is filed by the petitioners/plaintiffs (hereinafter called as 'plaintiffs') for setting aside the order dated 30.05.2023 passed by learned Civil Judge (Junior Division), Ludhiana whereby the application dated 19.11.2022 filed by respondent No.1/defendant No.1 under Order 1 Rule 10 CPC read with Section 151 CPC for impleading Jarnail Kaur as defendant No.6/respondent No.6 herein, has been allowed.

2. The brief facts as culled out from the paper book are that the plaintiffs and respondent No.5/defendant No.5 in the plaint purchased land measuring 31 kanals out of total land measuring 64M-19M from respondent No.1(hereinafter called as 'defendant No.1) vide registered sale deed dated 08.03.2021. The mutation was also sanctioned in their favour in equal shares. There is an electric tubewell connection bearing No.S-232(old) and AP-04/179 (hereinafter called as 'connection in dispute') which is in working condition for irrigation purposes.

3. The defendant No.1 has also transferred the said electric tubewell connection and handed over the original passbook of the said electric connection to the plaintiff. He has also handed over the photocopy of passbook of another tubewell connection bearing Account No. S-236-AP-04/158 (hereinafter called as 'other connection') which was issued in the name of Pakhar Singh, father of defendant No.1. Since it was not sure to defendant No.1 as to which is the exact account number of the tubewell connection running in the land which was sold, he approached the plaintiffs as well as defendant No.5 to handover the original passbook of other connection i.e. account No. S-236 (old)AP-04/158. The plaintiffs and defendant No.5 returned the original passbook of electric motor of connection in dispute. In actual, other connection was installed in some other land registered in the name of the father of defendant No.1. Thereafter, defendant No.1 asked the plaintiffs and defendant No.5 to return the passbook of other connection i.e. Account No. S-236 (old)AP-04/158, however, the plaintiffs and defendant No.5 asked to hand over them the passbook of the connection in dispute i.e. No.S-232 (old) AP-04/179 in lieu of that. The plaintiffs and defendant No.5 are using the connection in dispute. It is installed in the land purchased by them and accordingly they are seeking for transfer of said electric motor connection in their names.

4. In the suit, mandatory injunction is also prayed for directing defendant No.1 to hand over the original passbook of electric motor connection i.e. Account No. S-232 (old) AP-04/179 and also prayed for permanent injunction.

5. Defendant No.1 contested the suit that in the agreement to sell dated 05.01.2021, it is clearly mentioned that from the electric motor lying installed in the property in question, the plaintiffs will be bound to provide water to Charanjit Kaur (daughter of Jarnail Kaur- respondent No.6) turn by turn. As per the agreement to sell, the plaintiffs have sworn an affidavit and undertook to provide the same. However, the plaintiffs resiled from their undertaking.

6. Respondent No.6-Jarnail Kaur moved an application that she is one of the legal heirs of Pakhar Singh, father of defendant No.1, being real sister of Pakhar Singh. After the death of Pakhar Singh, she has also inherited share in the electricity connection along with other legal heirs.

7. Learned counsel for the plaintiffs has argued that on the sale of the property, no right is left in the electric connection. The applicant/respondent No.6 is not a Class I legal heir of Pakhar Singh. She is not entitled to inherit any estate of Pakhar Singh. After execution of sale deed, the agreement to sell dated 05.01.2021 lost its significance and has no relevance at all.

8. I have heard the submissions of learned counsel for the plaintiffs/petitioners. The applicant/respondent No.6 is one of the co-sharers in the land as shown in the jamabandi along with plaintiffs, defendant No.1 and defendant No.5. The plaintiffs have also sworn an affidavit and undertook to provide water turn by turn to 5 kanals land of the applicant/respondent No.6. The electric connection was issued in the name of Pakhar Singh in the year 1969. The applicant is not a stranger. She is a sister of Pakhar Singh and has been co-sharer of Pakhar Singh being his sister. Whether she has got the

would be decided during the trial of the case. Since she is drawing water from the said electric connection for irrigating her fields, so she is a proper party.

9. In view of above, I do not find any illegality and irregularity in the order passed by learned trial Court. Petition stands dismissed accordingly.

(GURBIR SINGH)
JUDGE

20.09.2023

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No