

2024:PHHC:032554
**134 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-629-2024 (O&M)
Date of decision: 06.03.2024

Ajay Chaudhary

....Appellant

Versus

Megh Raj and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. R.S.Mamli, Advocate for the appellant

ANIL KSHETARPAL, J (Oral)

1. In this Regular Second Appeal, the correctness of the concurrent findings of fact arrived by the courts below while dismissing the plaintiff's suit for the grant of decree for permanent injunction has been assailed. The dispute in the present case is with respect to a small plot of 1 kanal in which a tubewell is installed. The electricity connection is in the name of late Sh.Daya Ram, who is grandfather of the appellant and the father of respondent no.1. The joint agricultural land between the parties has already been partitioned. The plaintiff filed a suit for the grant of decree of permanent injunction claiming injunction restraining the respondent from obstructing the course of water from tubewell. Both the courts have come to a conclusion that the defendants have been exclusively operating the tubewell for quite sometime. It has come on record that the respondent extended the sanctioned load from 5 BHP to 7 BHP and in the second instance from 7 BHP to 15 BHP. It has also come on record that the respondents have been paying the bill of the electricity consumption from 2008 onwards. They have produced as

many as 9 bills. Apart from that, the respondents were found committing theft of electricity. An assessment order was passed against them by the electricity supply company and they deposited the aforesaid amount. In view of the aforesaid evidence, both the courts have come to the conclusion that the plaintiff is not drawing water from the aforesaid tubewell.

2. Learned counsel representing the appellant contends that the appellant has produced two electricity bills dated 25.05.2018 and 29.09.2016. He further submits that the aforesaid 1 kanal land has not been partitioned.

3. This Court has considered the submissions made by the learned counsel representing the appellant.

4. The plaintiff filed the suit for the grant of decree of permanent injunction. He has failed to establish that he was drawing water from the aforesaid tubewell nearly 12 years before the filing of the suit.

5. Keeping in view the aforesaid facts, no ground to interfere is made out.

6. Hence, dismissed.

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

06.03.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE