

2024:PHHC:016258

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

CR-2608-2019 (O&M)
Date of decision: 05.02.2024

Ved Kaur

....Petitioner

Versus

Sub Divisional Officer, Punjab State Power Corporation Ltd. and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Ajit Singh Sodhi, Advocate for the petitioner

Mr. Varun Dhawan, Advocate for respondent no.4

ANIL KSHETARPAL, J (Oral)

1. The petitioner herein claims to be a decree-holder. A civil suit filed for the grant of decree of declaration was decreed on 30.10.2008. The petitioner was held to be owner of 1/6th share of the electric connection of the tubewell. The correctness of the aforesaid judgment was upheld in appeal. Thereafter, in 2015 she filed an application under Order XXI Rule 32 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') for implementation of the aforesaid decree. The same was dismissed on 23.10.2017, which in appeal was affirmed by the Appellate Court on 02.01.2019.

2. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

3. The learned counsel representing the petitioner submits that in view of the decree passed in favour of the petitioner, she is entitled to

use 1/6th share of the electricity connection of the tubewell. He submits that the courts below have erred in rejecting the application.

4. On the other hand, the learned counsel representing respondent no.4 submits that the petitioner was held entitled to 1/6th share in the electric connection, which was installed on the tubewell located in the land comprised in Khasra no.15 of Rect.no.27. He submits that the usage of the aforesaid tubewell was discontinued and now it does not exist. On 05.10.2023, the arguments were heard. Thereafter, it came to the notice of the Court that the joint land measuring 65 kanal 1 marla was partitioned by the Assistant Collector First Grade, Zira vide order dated 08.09.2000. Hence, the parties were directed to produce the aforesaid order.

5. Today, a copy of the instrument of the partition has been produced. The learned counsel representing the parties are ad idem that the land comprised in Rect. no.27 Khasra no.15 has fallen to the share of the private respondent-Sh.Baldev Singh. Admittedly, this document was not brought to the notice of the courts below. In the considered opinion of the Court, this is a relevant document which is required to be examined by the court before passing any order under Order XXI Rule 32 CPC.

6. Keeping in view the aforesaid facts and discussion, the Executing Court is requested to pass fresh order, after considering the effect of instrument of partition between the parties. The parties through their counsels are directed to appear before the Executing Court on 01.03.2024.

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

05.02.2024
rekha

(ANIL KSHETARPAL)
JUDGE

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