

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.1935 of 2018 (O&M)

Date of Order:11.03.2024

Chamkaur Singh

.Appellant

Versus

Pavittar Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. L.S.Sidhu, Advocate
for the appellant.

ANIL KSHETARPAL, J

1. In this regular second appeal, the plaintiff assails the correctness of the judgment and decree passed by the First Appellate Court, which in turn reversed the judgment and decree passed by the trial court.

2. In order to comprehend the issues involved in the present case, the relevant facts, in brief, are required to be noticed.

3. The plaintiff filed a suit for grant of decree of declaration that he is the exclusive owner of an electric connection installed on a tubewell located in the land comprised in Rect. No.20, Khasra NO.18/1 (4 kanals and 4 marlas). He claimed that in a family partition which took place 35 years ago, the disputed property fell to his share and in the year 1992, he applied for a new electric connection which was installed in the year 2013.

4. The defendants while contesting the suit claimed that Sh. Baldev Singh, father of the plaintiff and defendants died on 22.05.2015. The plaintiff being eldest brother, applied for electric connection in his own name which was issued, however, the entire agricultural land of the parties is joint.

5. The trial court decreed the suit on the ground that the electric connection is exclusive in the name of the plaintiff. The First Appellate Court on re-appreciation of the evidence, arrived at a conclusion that the plaintiff has failed to prove that the agricultural land between the parties was ever partitioned. Though, the plaintiff claimed that the family partition was reduced into writing, however, he failed to produce the same. In the revenue record, the agricultural land is recorded as joint. The plaintiff has not even alleged that the land comprised in Rect. No.20, khasra no.18/1, where electric tubewell connection has been installed exclusively belongs to the plaintiff. Thus, the First Appellate Court reversed the judgment and decree passed by the trial court.

6. This Bench has heard the learned counsel representing the appellant at length and with his able assistance perused the paper book.

7. The learned counsel representing the appellant submits that the electricity connection of the tubewell is exclusively in favour of the plaintiff and it has been issued on the declaration submitted by the defendants. He submits that the defendants cannot claim any share in the electricity connection.

8. This court has considered the submissions of the learned counsel representing the appellant.

9. It is evident that the electric connection on the tubewell has been installed in the joint unpartitioned land between the parties. They are members of the same family. It is not in dispute that the appellant is the elder brother of the respondent. It is the case of the defendants that the electric connection was applied in the name of the plaintiff because he was the elder brother of the respondents. On preponderance of evidence, the

First Appellate Court has found that the plaintiff has failed to prove his case.

10. In the Regular Second Appeal, the court is not expected to interfere unless the findings of fact arrived at by the First Appellate Court are a result of misreading or non-reading of evidence. The findings of fact arrived at by the court on appreciation of evidence is not required to be interfered with in absence of perversity in the view taken in the impugned judgment.

11. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

12. Dismissed.

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

March 11, 2024

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(ANIL KSHETARPAL)

JUDGE

Whether speaking/reasoned

Whether reportable

:YES/NO

:YES/NO