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

**RSA No.1044 of 2020
Date of decision : 08.07.2025**

Hari Singh

....Appellant

Versus

Daroga Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Harshit Jain, Advocate
for the appellant.

PANKAJ JAIN, J. (ORAL)

Defendant No.2 is in second appeal aggrieved of judgment and decree passed by both the Courts below whereby suit filed by the plaintiffs, stands decreed.

2. For convenience, the parties hereinafter referred to by their original position before the Court of First Instance, i.e. the appellant as defendant No.2, respondents No.1 & 2 as the plaintiffs, respondents No.3 & 4 as defendants No.3 & 4, and respondent No.1 as defendant No.1.

3. Plaintiffs filed suit seeking decree of declaration to the effect that they are co-owners and in joint possession of the electricity connection to the extent of 1/2 share being co-owners and in joint possession of land and on the strength of affidavit dated 08.11.2006 executed by Ranjit Singh. Further relief sought was in form of decree of permanent injunction



restraining defendants No.1 and 2 from obstructing plaintiffs from using the electricity connection.

4. As per the case of the plaintiffs, Harnam Singh father of the plaintiffs admittedly applied for electricity connection vide receipt No.285 dated 17.12.1987 after depositing the security. Before the electricity connection could be installed, Harnam Singh died. After death of Harnam Singh, plaintiffs and defendants No.1 & 2, i.e. all the four brothers stepped into the shoes of Harnam Singh. As per plaintiffs, electricity connection was installed in the name of defendant No.1 being eldest brother. Even though the expenses were borne by all the four brothers in equal shares. As per plaintiffs, in order to avoid legal complications, defendant No.1 executed affidavit dated 08.11.2006 admitting all the four brothers to be co-owners in the electricity motor connection and admitting their rights to use the same. As per plaintiffs, the land wherein the motor has been installed is in exclusive possession of the plaintiffs. All the four brothers are using the same to irrigate their respective shares of land. The load was increased from 5 B.H.P. to 10 B.H.P. jointly by depositing an amount of Rs.19,000/- collectively on 05.02.2009. As per plaintiffs, they have no other source of irrigation except the motor in dispute. Defendants No.1 & 2 in connivance with each other are threatening user of the motor by the plaintiffs.

5. Suit was contested by the defendants. Defendants denied that the plaintiffs contributed to the expenses incurred on installation of the electric motor connection. It is admitted that the security was deposited by



Harnam Singh, father of the plaintiffs and defendants No.1 & 2 on 10.06.1986. As per defendants, plaintiffs and defendant No.2 tendered affidavit giving no objection if the security deposited by Harnam Singh is transferred in the name of defendant No.1. It is claimed that since the connection in dispute was released in favour of defendant No.1, plaintiffs have no right in the same.

6. The suit filed by the plaintiffs was put to trial, framing the following issues:

1. Whether the plaintiffs are having any share, right, title or interest in the suit connection? OPP
2. Whether the plaintiffs are in exclusive possession over Khasra No..129//7(2-8) where the suit connection has been installed? OPP
3. If so, whether the plaintiffs are entitled to the relief of declaration as prayed for?
4. If so, whether the plaintiffs are entitled to the relief of permanent injunction, as prayed for?
5. Whether suit of the plaintiff is not maintainable? OPD
6. Relief.

7. While deciding Issues No.1 to 4, the Court of the First Instance found that Ranjit Singh, defendant No.1 admitted in his cross-examination that all four brothers are cultivating their respective shares through motor connection in dispute. It is admitted that the security amount was deposited by father Harnam Singh on 10.06.1986. Execution of affidavit, Exhibit P-1, was proved by examining attesting witnesses. The same was attested by Executive Magistrate. By way of said affidavit, Ranjit Singh defendant No.1 recognized the rights of all the brothers to use the electricity



connection in dispute. The Trial Court accordingly decreed the suit filed by the plaintiffs.

8. The findings recorded by the Trial Court, stand affirmed by the Lower Appellate Court.

9. Counsel for the appellant has assailed the findings recorded by the Courts below. It has been contended that Exhibit P-1 though tendered in evidence was not proved, as no official from the O/o Sub Registrar was examined. Reliance is being placed upon Exhibit D-1 which is 'No Objection Certificate' given by the three brothers regarding transfer of connection in the name of defendant No.1.

10. I have heard counsel for the appellant and have carefully gone through records of the case.

11. The controversy revolves around document Exhibit P-1 and the document Exhibit D-1. Exhibit P-1 is an affidavit executed by Ranjit Singh whereby he admitted the rights of all the brothers to use the electricity connection to cultivate their respective shares of land and also recognize their contribution at the time of installation of the tubewell. The plaintiffs claim the same to be a forged document. Plaintiffs in order to prove the same have examined PW-1 Lamberdar who identified his signatures on the affidavit and Jarnail Singh as PW-2, who also is a marginal witness to the affidavit dated 08.11.2006 and identified his signatures thereupon. No evidence was led by defendants to prove the allegation that the affidavit is a forged/fabricated document.



12. Exhibit D-1 is nothing but a ‘No Objection Certificate’ issued by three brothers in favour of defendant No.1 which in a way advances the case of the plaintiffs and in no way helps the case of the defendants. Admittedly, there is no other source of irrigation for the share of land of plaintiffs apart from the electricity motor in question.
13. Pure findings of fact have been recorded by the Courts below after analysing the evidence threadbare.
14. In view of above, finding no merit in the present appeal, the same is ordered to be dismissed.

July 08, 2025

Dpr

Whether speaking/reasoned

Whether reportable

(Pankaj Jain)

Judge

:

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Yes/No

Yes/No