

2025:PHHC:029375



260-Urgent

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

**RSA No. 856 of 2021 (O&M)
Date of Decision: 28.02.2025**

Krishan Kumar and another

..... Appellants

Versus

Ram Pal

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Mohit, Advocate for
Mr. Vikrant Rana, Advocate
for the appellants-defendants.

HARKESH MANUJA, J. (ORAL)

By way of present appeal, challenge has been laid to the judgment and decree dated 11.02.2020 passed by the Court of Additional District Judge, Charkhi Dadri (**hereinafter to be referred as “First Appellate Court”**), whereby first appeal filed at the instance of appellants-defendants against the judgment and decree dated 19.09.2017 passed by the Court of Civil Judge (Junior Division), Charkhi Dadri (**hereinafter to be referred as “trial Court”**), decreeing the suit for permanent injunction instituted at the instance of respondent-plaintiff, was dismissed; thereby restraining the appellants-defendants from interfering in the use and enjoyment of tubewell in question.

[2] Briefly stating, respondent-plaintiff filed a suit for permanent injunction, while claiming himself to be in joint possession with appellants-defendants over the land measuring 105 kanal 07 marla comprised in

Khewat No. 65//33, Khatoni No.77 situated within the revenue estate of Village Nandha. It was further pleaded that a common tubewell with electricity connection in the name of appellant(s)-defendant(s) was installed on the land in question; half expenses of the same were incurred by the plaintiff and remaining half by the co-sharers and the plaintiff-respondent was using the said tubewell connection for irrigating his land, however, the appellants-defendants started interfering in the usage, thereby compelling him to file the suit for permanent injunction.

[2.1] Upon notice, the appellants-defendants appeared and disputed the version made in the plaint, while stating that the land was no more joint between the parties having been mutually partitioned and the parties were in their separate and exclusive possession. It was also pleaded that the tubewell was got installed in the property in question at the exclusive expenses of appellants-defendants and thus was never joint and accordingly, the plaintiff was having no right therein, however, was only allowed to use the same being close relative.

[3] On the basis of pleadings of the parties, the trial Court framed the following issues:-

- “1. *Whether the plaintiff is entitled to decree of permanent injunction, as prayed for? OPP*
2. *Whether the present suit is not maintainable in the present form? OPD*
3. *Whether the plaintiff has no locus standi to file the present suit? OPD*
4. *Whether the present suit is false and frivolous and defendants are entitled to special costs? OPD*
5. *Whether the plaintiff is estopped by his own act and conduct to file the present suit? OPD*

6. *Whether the plaintiff has not come to the court with clean hands and has suppressed the true and material facts from the Court? OPD*
7. *Relief. ”*

[4] The trial Court, vide its judgment and decree dated 19.09.2017, decreed the suit, filed at the instance of respondent-plaintiff, while holding that the land was still joint and the respondent-plaintiff was having right to use and enjoy the tubewell installed therein, thereby restraining the appellants-defendants from causing any kind of interference therein.

[5] Aggrieved thereof, the appellant-defendants filed the first appeal, which came to be dismissed vide judgment and decree dated 11.02.2020 passed by the First Appellate Court. Hence, the present appeal.

[6] Impugning the aforesaid judgments and decrees dated 11.02.2020 and 19.09.2017, learned counsel for the appellants-defendants submits that once, it was established on record that the electricity connection and the tubewell in question was exclusively installed in the name of appellant No. 1-defendant No. 1 (Krishan Kumar) and even the equipments for the said purpose were purchased by him alone from his own pocket, the suit was liable to be dismissed.

No other argument has been raised on behalf of the appellants-defendants.

[7] After hearing learned counsel for the appellants and having gone through the paper-book / records, I am unable to find substance in the submission(s) made on behalf of the appellants-defendants.

[8] In the present case, from the revenue record produced and proved on the file as Ex. P1 (Jamabandi for the year 2007-08), it has been

established that the land in question still remains joint between the parties and the electricity connection of tubewell in question was installed therein, though exclusively in the name of appellant No. 1-defendant No. 1. While appearing as DW-4, appellant No. 1-defendant No. 1 even admitted that the tubewell was being used by both the parties jointly. This fact was also established through the payment receipts / electricity bills duly proved on record as Exhibits P-2 to P-22 by the respondent-plaintiff, he having been paying the electricity bills / tubewell charges on regular basis. On the other hand, it was never proved on record by the appellants-defendants that the land stood partitioned as no revenue entries to this effect were produced; not even *Khasra Girdawaries* showing exclusive possession of the parties were brought on record.

[9] Accordingly, in view of the discussion made hereinabove, finding no illegality or perversity with the concurrent findings of fact recorded by the Courts below; the present appeal, being devoid of merits, is hereby **dismissed**.

[10] Since, the main appeal has been decided / dismissed, no orders are required to be passed in the pending application(s) and the same shall stand disposed off.

February 28, 2025

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**(HARKESH MANUJA)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>