



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

RSA No.3113 of 2025
Date of Decision: 08.09.2025

BALJIT SINGH

....Appellant

Versus

SEWA SINGH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Anil Shukla, Advocate
for the appellant.

Parmod Goyal, J. (Oral)

Defendant/appellant has preferred present Regular Second Appeal being aggrieved by the impugned judgment and decree dated 26.02.2020, passed by learned Civil Judge, Junior Division, Payal, vide which suit for declaration and permanent injunction preferred by plaintiffs/respondents was partly decreed with costs. Defendants are further aggrieved by dismissal of their appeal vide impugned judgment dated 25.07.2025, by the Court of learned Additional District Judge, Ludhiana, whereby appeal preferred by defendant/appellant was also dismissed. Appellant has preferred appeal against the concurrent finding recorded by both the Courts.

2. Plaintiffs/Respondents vide their suit for declaration and permanent injunction claimed that previously defendant No.3-Darshan Singh son of Gurdial Singh was owner of 34 kanal 11 marla, duly described in the



plaint. It is the case of plaintiffs that Darshan Singh along with other defendants were co-sharers in the suit land which also had electricity and tubewell connection bearing No.F351. The electricity connection was in the name of Gurdial Singh father of defendant No.3. Defendant No.3-Darshan Singh sold land measuring 34 kanal 11 marla to plaintiffs through registered sale deed dated 15.06.2006 along with rights in electricity connection, kotha, bore, pahi, khal etc. along with rights to the extent of half share with rights appurtenant thereto.

3. It was the case of plaintiffs that electricity connection is the only source of irrigation for the land and same is attached to the joint land and amenities in the shape of electricity and tubewell connection along with irrigation channels are joint and plaintiffs have complete right to use the said common amenities. It is asserted that plaintiffs have been using the same and have been sharing maintenance and running costs of electricity as per their share. It is asserted that though defendant No.2 is shown to be co-sharer in the electricity motor, but in a family settlement, he had relinquished his share in favour of defendants No.1 and 3 as he is irrigating his land through another motor connection. It is asserted that now defendants No.1 to 3 are threatening the plaintiffs that they shall not allow plaintiffs to irrigate their land through electricity connection which is joint and accordingly, suit was preferred.

4. Defendants had taken number of preliminary objections as regards to locus standi, plaintiffs having not approached the Court with clean hands, that property was not rightly described, estoppel, non-joinder and



mis-joinder of parties, lack of jurisdiction and the fact that the suit is not properly stamped.

5. On merits, it is admitted that electricity connection is in the name of Gurdial Singh father of defendant No.3 who had died leaving three sons namely, Baljit Singh, Baldev Singh and Darshan Singh (defendants No.1 to 3). It was stated that Darshan Singh was not owner of electricity connection, therefore he was neither competent to sell nor had sold the same. It is asserted that Gurdial Singh had transferred the land measuring 10 kanal 10 marla along with electricity motor connection bearing account number F-351 of 20 HP in favour of his son, Baljit Singh vide transfer deed dated 17.07.2006 and had also transferred the possession of said land along with electricity motor connection and since then it is Baljit Singh who is owner in possession of land as well as electricity/bore connection and all other appliances attached with the electricity connection. Therefore, plaintiffs have no right, title or interest in the said electric connection/motor. It is asserted that plaintiffs have purchased another piece of land measuring 29 kanal 17 marla along with motor connection vide sale deed dated 21.06.2006 and plaintiffs are irrigating their land with the said motor and are not using electricity connection which is being claimed by plaintiffs. Accordingly, dismissal of suit was prayed for.

6. Defendants No.4 and 5 had also opposed the suit preferred by plaintiffs by taking preliminary objections similar to other defendants. On merits it was asserted that electricity consumer was Gurdial Singh and there is no privity of contract between defendants No.4 and 5 with the plaintiffs.



They denied knowledge about death of Gurdial Singh. They asserted that connection is in the name of Gurdial Singh and running as such in his name. They also prayed for dismissal of suit.

7. From the pleadings of parties, following issues were framed :-
 - (i) Whether plaintiffs are entitled to declaration? OPP.
 - (ii) Whether plaintiffs are entitled for permanent injunction as prayed for and for passing of decree for fixing terms and conditions to use and maintain the electricity connection and other machinery attached thereto, use of kotha, hal, passage for irrigating the land? OPP
 - (iii) Whether the present suit is not maintainable? OPD
 - (iv) Relief.

8. Both the Courts below have concluded that connection was in the name of Gurdial Singh, who was succeeded by his three sons, namely, Baljit Singh, Baldev Singh and Darshan Singh. Both the Courts have also duly taken note of registered sale deed dated 15.06.2006 executed by Darshan Singh in favour of plaintiffs, wherein defendant No.3 had duly sold the land along with right to use electricity connection bearing No.F351 along with kotha, bore, pahi, khal etc. and rights appurtenant thereto to the extent of his share. The case of defendants is that land along with electricity connection was transferred by Gurdial Singh in favour of defendant Baljit Singh, therefore Darshan Singh had no right to sell the rights in the electricity connection and therefore, plaintiffs have no right to the electricity connection which vested exclusively in favour of Baljit Singh.



9. Learned counsel for appellant has argued that both the Courts have erred in holding that Gurdial Singh had only transferred his share in favour of Baljit Singh vide transfer deed dated 17.07.2006. It is asserted that suit land is still joint and has not been partitioned and therefore, right of Baljit Singh over the suit property on the basis of transfer deed is exclusive right.

10. The fact that the suit property is joint land is not being disputed even by appellant. It is worth noting that Darshan Singh had sold his rights in favour of plaintiff vide sale deed dated 15.06.2006 along with rights in electricity connection to the extent of his shares. Gurdial Singh had subsequently transferred his share in favour of Baljit Singh along with his rights vide subsequent transfer deed dated 17.07.2006, which clearly shows that Gurdial Singh had only transferred his share in the electric connection to Baljit Singh as the connection as well as land was joint.

11. Defendants have not led any evidence to show that Darshan Singh had no right over the electricity connection when the same was sold to plaintiffs by him vide sale deed dated 15.06.2006. Reliance has been placed on cross-examination of PW1 wherein he admitted that at the time of sale of property, Gurdial Singh was recorded owner of electric connection and not Darshan Singh, is not sufficient to conclude that Darshan Singh had no right in the joint land which he jointly owned with Gurdial Singh. Co-sharers have right to share all amenities attached to land equally.

12. Both the Courts have duly noticed the fact that the suit property is still joint among co-sharers and has not been partitioned till date. If the



suit property is still joint, then each of the co-sharer is entitled to use amenities attached with the joint land which includes electricity connection, kotha, bore, pahi, khal and all other rights appurtenant etc. Both the Courts have recorded similar finding and had found that plaintiffs are entitled to use the electricity connection bearing No.F351.

13. I do not find any error in the conclusions drawn by Courts below. Findings of the Courts below are affirmed. There is no merit in the appeal and the same is dismissed.

08.09.2025
chiranjeev

(PARMOD GOYAL)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No