

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****104****RSA-1464-2025 (O&M)****Date of Decision: 03.05.2025****AMARJIT SINGH AND ANOTHER****.....APPELLANTS****Vs.****LOVEPREET SINGH AND OTHERS****.....RESPONDENTS****CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**Present: Mr. Arun Sharma, Advocate
for the appellants.

DEEPAK GUPTA, J.

This is plaintiffs Regular Second Appeal against the concurrent findings of the Courts below, inasmuch as suit seeking permanent injunction filed by them against defendants-Lovepreet Singh and others (*respondents herein*) was dismissed by the trial Court on 28.11.2019; and the appeal filed by them was dismissed by First Appellate Court on 21.11.2024.

2. The only contention made by learned counsel for the appellants is that evidence on record has not been properly appreciated.

3. Heard. Perusal of the paper book would reveal that plaintiffs claimed that Sampuran Singh was owner in possession of land measuring 71 bighas 5 biswas, which was irrigated through electric motor connection bearing A/c No. W-187, which was in the name of defendant No.3-Jagar Singh. After the death of Sampuran Singh, total agriculture land was inherited by four sons of said Sampuran Singh namely, Hazura Singh, Jagar Singh, Balbir Singh and Ajaib Singh. Hazura Singh died on 20.12.2013. Plaintiffs are the sons of said Hazura Singh. Plaintiffs claimed further that now they are in cultivating possession of khasra Nos. 1279, 1280 and 1281 and that electric motor connection in question is installed in khasra No.1280. It was further the case of the plaintiffs that as the old bore well of the tube well became dysfunctional, they installed new bore with their own funds in khasra No.1280 and have been irrigating their land from the aforesaid



electric motor connection and the tube well. Defendant No.3-Jagar Singh has sold 12 Bighas 17 ½ biswas land of his share to defendant Nos. 1 and 2 by way of registered sale deed dated 13.08.2008 and in the said sale deed, there is also a reference of sale of ½ share of the electric motor connection to defendant Nos. 1 and 2. It is also the allegation that defendant Nos.1 and 2 were earlier irrigating their land through another tube well, but now in collusion with other defendants, they want to shift the electric motor connection from khasra No.1280 to other khasra number, which is in their possession, without having any right to do so.

4.1 Defendants contested the suit. It was claimed by defendant Nos. 1 and 2 that in a family settlement, prior to the death of Sampuran Singh, the land was partitioned by way of an oral settlement and ever-since then, all the sons of Sampuran Singh were residing separately. Khasra No.1280 had come to the share of Jagar Singh-defendant No.3, who was in actual physical possession thereof and had installed electric motor connection in said khasra with his own funds and had taken electric motor connection bearing A/c No. W-187. It is claimed that they have purchased the said land and that plaintiffs had no concern with the electric motor connection in dispute, as they (defendants) had come in possession of khasra No.1280. They also submitted that on the basis of an affidavit dated 17.12.2014 given by Jagar Singh-defendant No.3, electric motor connection was transferred in the name of defendant No.2.

4.2 Defendant No.3-Jagar Singh claimed that he had no intention to shift the electric motor connection from khasra No.1280 to other khasra number and that plaintiffs had the right to irrigate their land from the said tube well.

4.3 Defendant Nos. 4 and 5 supported the stand of defendant Nos. 1 and 2 by submitting that electric motor connection in question was in the name of defendant No.3-Jagar Singh and based upon his affidavit, the same was transferred in the name of defendant No.2.



5. Necessary issues were framed. Evidence produced by the parties was taken on record. Trial Court dismissed the suit on 28.11.2019.

6. While affirming the findings of the trial Court, learned First Appellate Court observed that plaintiff-Amarjit Singh, examined as PW-1, had categorically admitted that suit property had not been partitioned by metes and bounds; that electric motor connection was in the name of Jagar Singh-defendant No-3, installed in khasra No.1280; and that he (plaintiff) had no proof regarding the possession thereof. He also admitted that Jagar Singh has sold his land to defendant Nos. 1 and 2 along with half share of electric connection and that defendant Nos. 1 and 2 have installed new tube well connection in khasra No.1275 and that plaintiffs did not ask them to give their half share of disputed connection. Learned First Appellate Court also referred to the admission made by PW-2-Hem Raj and other witness PW-3 to the effect that tube well connection was earlier in the name of Jagar Singh and that khasra No.1280 had later on fallen to the share of Naib Kaur-defendant No.2, who was in possession thereof.

7. Based upon the aforesaid evidence, the First Appellate Court came to the conclusion that plaintiffs had failed to prove their version to be in exclusive possession of khasra No.1280, in which the electric motor connection was installed and on the other hand, there was sufficient evidence that said connection had been transferred in the name of defendant No.2 on the basis of affidavit of defendant No.3, in whose name, the connection was earlier existing.

8. This Court does not find any perversity or illegality in the concurrent findings of facts recorded by the Courts below, which are based upon proper appreciation of evidence on record. As such, holding the appeal to be devoid of any merit, the same is hereby dismissed.

03.05.2025

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(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned?

Yes

Whether reportable?

No