

Raghbir Singh VS Balwinder Singh etc.

Present: Sh. R.S.Bajwa, Advocate counsel for plaintiff.
Sh. S. S. Cheema, Advocate counsel for defendant no. 1.
Defendants no. 2 and 3 ex parte vide order dated 05.08.2023.
Defendant no. 4 ex parte vide order dated 07.02.2022.

Heard on application under Section 65B of Indian Evidence Act filed by defendant Balwinder Singh.

It is alleged in the application that the plaintiff has filed the suit for permanent injunction against the present defendant and others restraining them from interfering in the possession of the plaintiff or dispossessing him or passing any passage through any part or portion of the suit land or dismantling or demolishing any part or portion of the tubewell kotha illegally and forcibly. However, the defendant never interfered in the possession of the plaintiff nor he demolished any part and portion of the tubewell kotha. The plaintiff has also filed the application under Order 39 rule 2A read with Section 151 CPC alleging that the defendant Balwinder Singh, Mandeep Singh and Ajit Singh demolished the tubewell chabacha (water tank) of the plaintiff which fact is totally false. In reality, plaintiff Raghbir Singh along with some other persons himself demolished the said chabacha (water tank) with their own hands and Mandeep Singh recorded the video of the said act of plaintiff and others with his mobile phone. The said video have been transferred by Mandeep Singh in pendrive which is relevant record. Therefore, the defendant wants to produce the same in evidence. Hence, the present application.

Reply to the application filed by the plaintiff alleging that the defendant no. 1 to 3 along with five/six unidentified persons came at the spot and demolished the chabacha (water tank). Remaining averments of the application have been denied and dismissal of the present application was sought.

I have heard the learned counsel for both the parties and perused the material on record.

Perusal of the file shows that the plaintiff had filed the suit for permanent injunction against the present defendant and others restraining them from interfering in the possession of the plaintiff or dispossessing him or passing any passage through any part or portion of the suit land or

dismantling or demolishing any part or portion of the tubewell kotha illegally and forcibly. Along with the plaint, an application under Order 39 rule 2 read with Section 151 CPC was also moved by the plaintiff and this Court has restrained the defendants from interfering in the possession of the plaintiff or dispossessing him or passing any passage through any part or portion of the suit land or dismantling or demolishing any part or portion of the tubewell kotha illegally and forcibly, vide order dated 05.01.2022.

As per the contention of the plaintiff, the defendants have violated the said order and demolished the tubewell chabacha (water tank) on 11.04.2022. However, the defendants have alleged that the said tubewell chabacha have been demolish by the plaintiff himself with the help of his associates. In this regard, the defendant wants to produce the video in the shape of pendrive.

In the opinion of this Court, the said videography is an essential evidence to ascertain the alleged demolition. Otherwise also, the defendant has a right to lead the same in evidence without moving the present application. However, the mode of proving the said video and admissibility of the same is a matter of trial. Accordingly, the present application stands allowed. Now, case is adjourned to 09.01.2024 for remaining defendant evidence.

Date of order: 20.12.2023
Amit Saini, Stenographer-III

(Manpreet Sohi),
CJ/JD, Batala
(UID No.PB0656)