

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****130****RSA-2201-2024 (O&M)****Date of decision: 14.05.2026****Sukhwinder Singh****...Appellant(s)****Vs.****The Chairman, PSPCL, The Mall Patiala and others ...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. R.S.Chauhan, Advocate
for the appellant.

NIDHI GUPTA, J.

The plaintiff is in Second Appeal against the concurrent judgments and decrees of the learned District Courts, whereby the suit filed by the appellant for permanent injunction, has been dismissed by both the District Courts.

2. Brief facts of the case are that plaintiff/appellant had filed a Suit for Permanent Injunction *inter alia* ".....restraining the defendants, their agents officials, agents and representatives from disconnecting the supply of electricity Tubewell connections bearing A/c No. K/1230AP, 2HP and A/c No.K2/655 installed in the land of the plaintiff and his co-sharers bearing Khasra No. 51//8/1, 13/2 and 44//5/2, situated at Village Bhohru, Tehsil and District Amritsar in any manner whatsoever may be."

3. It was the pleaded case of the appellant that originally land bearing khasra No. 51//8/1, 13/2 and 44/5/2 was owned by Chanan Singh,



grand father of the plaintiff. After his death, the said land was inherited by plaintiff, Shamsher Singh, and Amandeep Singh. Plaintiff had got half share from the said land. It was averred that there were two tube well electric connections bearing account no. A/1230AP, 2HP; and account No. K2655 in the above said land. Plaintiff and other co-sharers used to irrigate the said land from the said tubewells. In 1993, officials of the defendant had tried to disconnect the connection. Plaintiff had filed Civil Suit bearing Nos. 141/93 and 190/93; and during the pendency of the said suits, the Sub Divisional Officer of the respondent-Corporation had suffered a statement and tube well connections were restored after completing all formalities. It was alleged that on 21.06.2017, officials of the defendant-Corporation visited the land of plaintiff and threatened to disconnect the tube well connection illegal and forcibly. Hence, present suit was filed on 13.05.2019.

4. Upon appraisal of the pleadings and the evidence led by the parties, the learned Civil Judge (Junior Division), Amritsar had dismissed the suit of the plaintiff vide judgment and decree dated 25.11.2019. The Civil Appeal filed by the plaintiff was dismissed by the learned Additional District Judge, Amritsar vide judgment and decree dated 18.03.2024. Hence, the present second appeal by the plaintiff.

5. Learned counsel for the appellant *inter alia* submits that despite the fact that appellant had produced material evidence on record; and despite the admission made by the respondents, suit of the appellant has been erroneously dismissed without appreciating the material evidence



on record. It is submitted by learned counsel for the appellant that the appellant discharged his onus by producing ample evidence. It is pointed out that the order passed by the Ld. Civil Judge, Junior Division, Amritsar dated 13.03.1997 was produced on record as Ex.P1 and Ex.P2 and the receipt of amount deposited as Ex.P3 and Ex.P4. Even the death certificate of Chanan Singh and Balwant Singh as well as Will executed by Chanan Singh were produced on record as Ex.P5, Ex.P6 and Ex.P7. It is submitted that even the documentary evidence has been ignored by learned District Courts. Thus, the impugned judgments and decrees have been passed in a mechanical manner and the contentions and arguments raised by the appellant have not been considered, which shows non-application of judicious mind.

6. Learned counsel for the appellant further submits that the respondents led the evidence and examined Executive Engineer Manpreet Singh, SDO, Sarai Amanat Khan, Sub-Division, PSPCL, Amritsar as DW-1 who categorically admitted in the affidavit as well as in the cross-examination the factum of statement made in the earlier proceeding and the amount of receipt. The cross-examination of said Manpreet Singh dated 19.11.2019 is reproduced as under:-

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DW-1 Er. Manpreet Singh, recalled for cross examination.

On S.A.

XXX by Sh. M.S Arora, Advocate, counsel for plaintiff.

It is correct that in compliance with the order passed by the court of Sh. K.B Raheja, CJJD, SDO concerned made a



statement before the court and same is already exhibited as Ex.P2. It is correct that Ex.P3 and Ex.P4 are the receipts which were issued on 26.03.97 after the passing of court order and there is a clear cut recital at Point A on Ex.P3 and Ex.P4 that the same were issued in compliance with the court order and is relating to RCO fees. I am not in complete in charge of Chabal sub division and I am a temporarily, in charge till 28.11.2019. I am not in knowledge of compete facts of the present case nor I am in knowledge of Ex.D1.

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Abhay Ranjan Shukla/19.11.2019”

7. Learned counsel for the appellant further submits that once the respondent itself made a statement for restoration of the tubewell connection as per the statement made before the competent Court of law and in response to which the appellant deposited the requisite charges to which the receipt was duly issued and thus there was no liability on the part of the appellant but despite that the respondent have issued the notice for disconnection of the tubewell connection, which was totally arbitrary and discriminatory and thus, the apprehension of the appellant to that effect was genuine but the District Courts erroneously non-suited the appellant.

8. It is accordingly prayed that the present Appeal be allowed; and the impugned judgments and decrees of the Id. District Courts be set aside.

9. No other argument is raised on behalf of learned counsel for the appellant. I have heard Id. counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellant.



10. No doubt, plaintiff has stated that previously respondents had disconnected tubewell connection of the plaintiff, which was subsequently restored. However, as stated by DW1, the said connection had been restored in pursuance to Court order. Moreover, the said previous disconnection of the tubewell in the year 1993, has no bearing at the present time.

11. Presently, Plaintiff has failed to establish any threat from respondent regarding disconnection of supply of electricity to the tubewell connection. In fact, as per the record, even no Memo or Notice had been issued by the defendants to the plaintiff demanding any amount or payment of charges. When this fact is pointed out by the Court to learned counsel for the appellant, he has insisted that even though no Memo or Notice has been issued to the appellant, yet tubewell stands disconnected. However, no document has been produced by the appellant to prove that defendants have ever tried to disconnect the electric tubewell connection of the plaintiff. Admittedly, no application or complaint has been moved by the plaintiff before any authority to complain about alleged disconnection or purported threat of disconnection by the respondents.

12. Even further, plaintiff has failed to establish that the aforesaid tubewell connections are borne in his name. Plaintiff has also failed to prove on record any such electricity bill qua the said tubewell connection which has been raised by the Electricity Department against the appellant. Plaintiff has also failed to demonstrate as to how he has come into possession of the said electricity connection of the tubewell without getting



it transferred in his name. Plaintiff has also failed to place on record any document from which it could be ascertained that connection is in the name of the plaintiff.

13. Be that as it may, plaintiff has even failed to demonstrate any threat by the respondents to disconnect the said tubewell connection.

14. Furthermore, aforesaid concurrent findings of fact cannot be interfered by this Court. This Court in Regular Second Appeal has limited jurisdiction to interfere in the concurrent findings of facts returned by the learned Courts below. The Hon'ble Supreme Court in ***M/s. Shivali Enterprises v. Godawari (Deceased) (SC): Law Finder Doc Id # 2034559*** has held that no matter howsoever incorrect or grossly erroneous the concurrent findings of the learned courts below may be, this Court in the Second Appeal can interfere in the concurrent findings only where there is an error in law or procedure. Further, reliance is also placed upon recent judgment of Hon'ble Supreme Court passed in ***Russi Fisheries P. Ltd. v. Bhavna Seth, (SC) : Law Finder Doc Id # 2880321***, the relevant paras of which read as under:-

"31. It is settled in law that the findings of fact howsoever erroneous, cannot be reopened and disturbed in second appeal which is required to be adjudicated only upon the substantial question of law, if any, arising therein. Thus, the argument that the High Court in second appeal ought to have examined the evidence to ensure the correctness of the findings of the First Appellate Court has no legs to stand and fails.

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33. In Kashibai w/o Lachiram and Another v. Parwatibai w/o Lachiram and others, (1995) 6 SCC 213, a similar proposition of law was laid down by this Court and it was held that the High Court cannot re-appreciate the evidence and interfere with the



findings of facts unless a substantial question of law or a question of law duly formulated is to be decided. The second appeal does not lie on the ground of erroneous findings of facts based on appreciation of the relevant evidence.

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35. Again, in Kulwant Kaur and Others v. Gurdial Singh Mann (Dead) by Lrs and Others, AIR 2001 SC 1273, it was emphasized that the fact remains that in a second appeal, a finding of fact, even if erroneous, will not be disturbed unless it is found that it stands vitiated for want of perversity. No such case for interference has been made out in the present case."

15. In the present case, no such error in law and procedure has been made out by learned counsel for the appellant.

16. In view of the discussion above, no ground is made out to interfere in the impugned judgments and decrees of the learned District Courts. The present Regular Second Appeal is hereby **dismissed**.

17. Pending applications, if any, stand disposed of.

14.05.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No