

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.2696 OF 2011  
(Arising out of SLP(C)No.27829 OF 2008)

HARBHAJAN SINGH

.....APPELLANT

VERSUS

HARBANS SINGH(DEAD)THR. LRS. & ORS.

.....RESPONDENTS

O R D E R

Leave granted.

This appeal is directed against the judgment of the learned Single Judge of the Punjab and Haryana High Court whereby he dismissed the second appeal filed by the appellant against the concurrent judgments and decrees passed by the trial Court and the lower Appellate Court in a suit for declaration filed by respondent No.1, who is now represented by his legal representatives.

Harbans Singh filed suit for declaration claiming that he is the actual consumer and owner of the tube-well connection No. AP-2-1336 installed in village Khojala, Tehsil Batala and transfer of the connection in the name of defendant No. 1 (appellant herein) and allotment of new connection No. AP-2-1694 in the

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latter's name is illegal, inoperative and ineffective. He also prayed for a permanent injunction to restrain the defendants from interfering with his tube-well connection or shifting the same.

In the written statement filed by the appellant, it was pleaded that though the plaintiff had applied for tube-well connection in Khasra No. 28B/19/2 but he voluntarily transferred the same by filing an affidavit. Defendant Nos. 2 to 4

(respondent Nos. 2 to 4 herein) supported the appellant's cause and pleaded that tube-well connection was transferred in the appellant's name because respondent No. 1 had submitted affidavit dated 3.3.1997 duly attested by the Executive Magistrate.

During the trial, the appellant placed on record compromise deed dated 27.6.1999 whereby respondent No. 1 agreed to withdraw the case.

After considering the pleadings of the parties and evidence produced by them, the trial Court decreed the suit and declared that transfer of the electric connection from the name of plaintiff to that of defendant No. 1 is illegal. As regards the compromise deed, the learned trial Judge observed that defendant No. 1 can enforce the same, if permissible under the law. The lower Appellate court agreed with the trial Court on all the issues and dismissed the appeal. The learned Single Judge of the Punjab and Haryana High Court dismissed the second appeal by observing that affidavit dated 3.3.1997 allegedly filed by respondent No. 1 cannot be relied upon for declining relief to him because original thereof had not been produced. As regards

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Exhibit D-1, the learned Single Judge reiterated that the appellant can avail separate remedy for enforcing the same.

We have heard learned counsel for the parties. The principal argument of the learned counsel for the appellant is that even though the parties had entered into a compromise during the pendency of the suit and the compromise deed Exhibit D-1 was produced in evidence, the trial Court and the lower Appellate Court refused to act upon the same ignoring the mandate of Order XXIII Rule 3 and the learned Single Judge erroneously approved their approach. Learned counsel for respondent No.1 invited our attention to paragraph 12 of the judgment of the lower Appellate Court and submitted that the trial Court did not act upon the compromise because his client had specifically denied execution of Exhibit D-1. However, he could not draw the Court's attention to any document to show that his client had, in fact, denied the



For Petitioner(s)            Mr.Vipin Gogia, Adv.

For Respondent(s)           Mr. Mohan Pandey,Adv.  
                                 Mr.Upendra Mishra, Adv.

                                 Mr.Vikas Mahajan, Adv.  
                                 Mr.Vishal Mahajan, Adv.  
                                 Mr. Dharam Bir Raj Vohra,Adv.

                                 UPON hearing counsel the Court made the following  
                                 O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

( Satish K.Yadav )  
Court Master

( Phoolan Wati Arora )  
Court Master

( Signed order is placed on the file )