

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR No.1532 of 2013 (O&M)

Date of decision: March 12, 2015.

UHBVL and others

... **Petitioners**

v.

M/s R.K. Rayon Pvt. Ltd.

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON**

Present: Shri Karanvir Singh Khehar, Advocate, for the petitioners.

None for the respondent.

**Dr. Bharat Bhushan Parsoon, J. (Oral):**

Genesis of this civil revision petition, invoking supervisory powers of this Court under Article 227 of the Constitution of India, is found in the impugned order of 15.6.2012 of Additional District Judge, Panipat whereby, during the pendency of the appeal against order dated 30.5.2012 of the lower court in civil suit No.372/2011, the appellate court below in the meantime had restrained the petitioners herein from disconnecting electric supply to the respondent-appellant-plaintiff, subject to furnishing of bank guarantee to the tune of 50% of the amount due to the petitioners.

2. In a suit preferred by the respondent-plaintiff M/s R.K. Rayon Pvt. Ltd., challenging the demand of Rs.33,06,066/- as electricity consumption charges, an application under Order XXXIX Rules 1 & 2 CPC, was made for seeking ad-interim injunction against enforcement of the said demand.

3. The lower court vide its order of 30.5.2012 had dismissed the said application finding the same to be devoid of any merit. When the respondent-plaintiff had taken the matter in first appeal, the appellate court, without even revoking or setting aside the said order had restrained the petitioner-defendants qua disconnection of electric supply on certain conditions as already mentioned in the earlier part of the judgment.

4. Record reveals that none had appeared for the respondent despite service on 17.7.2013. Then the matter was adjourned to 6.9.2013. One more opportunity was granted to the respondent for his appearance. No representation was made by the respondent even then. In short, the respondent did not make appearance on 26.11.2013, 18.12.2013, 16.5.2014 and even forth today. Sequelly, the respondent was proceeded ex-parte.

5. When the demand of Rs.33,06,066/- has been raised and there is absolutely no convincing material, as has been held after elaborate discussion by the lower court, to question it on the ground of illegitimacy, there was absolutely no material or substance with the first appellate court to pass the impugned order restraining the petitioner-defendants from disconnecting the electric supply.

6. During the course of arguments addressed by Counsel for the petitioner-defendants, when the paper book has been perused, it is a clear case where the respondent-plaintiff has cleverly thwarted the legitimate attempt of the petitioner-defendants qua recovering the amount under demand.

7. The suit has been preferred by the respondent-plaintiff. If it is able to convince the court after leading evidence that the demanded amount was neither due against it nor could have been claimed, the respondent-plaintiff of-course would be entitled for refund. But, when prima facie respondent-plaintiff had not been able to convince the court of first instance

regarding existence of any circumstances worth consideration resulting in dismissal of his application under Order XXXIX Rules 1 & 2 CPC, passing of impugned order by the first appellate court without assigning any reasons for substituting his opinion with that of well considered findings of the lower court, is completely unacceptable as lower court finding is founded on tangible material worth consideration.

8. At this stage, there being absolutely no foundation to sustain the impugned order passed by the first appellate court, the same is set aside. The petition having merit, is accepted to the above effect.

9. However, the appellate court is directed to decide the appeal within one month.

**[Dr. Bharat Bhushan Parsoon]**  
**Judge**

March 12, 2015.  
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1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *Whether to be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*