

Civil Revision No. 271 of 2016

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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

Civil Revision No. 271 of 2016(O&M)  
Date of Decision : 07.04.2016

M/s Ambience Developers and Infrastructure Private Limited

...Petitioner

Versus

Anurag Kumar and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE K. KANNAN**

- 1) *Whether Reporters of the local papers may be allowed to see the judgment?*
- 2) *To be referred to the Reporters or not?*
- 3) *Whether the judgment should be reported in the Digest?*

Present: Mr. D.S. Patwalia, Senior Advocate with  
Mr. Rahul Garg, Advocate and  
Mr. Kannan Malik, Advocate for the petitioner.

Mr. Akshay Bhan, Senior Advocate with  
Mr. Santosh Sharma, Advocate  
for respondents No. 1 to 11.

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**K. Kannan, J.(Oral)**

In a suit for securing a relief that an order passed by the District Town Planner(P), Gurgaon to the residents Welfare Association issued on 23.12.2014 is null and void, the petition was for seeking an interim prayer that external maintenance for power back up shall be claimed at particular rate. The order

impugned in the suit was that an entry/exit gate and boom barrier was allowed at certain points denoted in the layout plan as a temporary measure ought not to be allowed.

The objection taken by the defendant-petitioner was that in relation to the facility of power back up, there had been already a suit filed by the plaintiff, which was adjudicated at the interlocutory stage by the Civil Judge (Jr. Division) on 10.10.2009 that status quo will be maintained on the payment of maintenance charges. This order is reported to have become final. Subsequently, the Court had given a direction in the suit that the facility of power back up by way of a Gen-sets should be continued to be given and the Court had directed the calculation sheets for the external maintenance power set up be provided by the defendant. Still later on 09.09.2015, the Court passed an order taking note of the respondent's statement that they would have no objection to release power back up through the Gen-sets, if they cleared all the outstanding dues. Without clearing the outstanding dues, the plaintiff filed an application to accept the maintenance charges at the rates convenient to the plaintiff and the Court has given such a direction.

I will hold the entire exercise to be completely non-sequeter to relief claimed in the suit. If there is an issue of the rate of maintenance charges and an enforcement is sought

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against the defendant at a particular rate, any interim relief ought to be in a suit which raises such a dispute. The Court will consider the prayer on the basis of evidence whether such an interim prayer could be granted. The interim prayer sought for determination of rate of charges for external maintenance cannot be granted in the present suit contains but a challenge to the order of Town Planner regarding the installation of the gates of the buildings. The order passed is erroneous and without jurisdiction.

I vacate the stay and allow the Civil Revision petition.

**April 07, 2016.**  
*kanchan*

**(K. KANNAN)**  
**JUDGE**