

CR No.7156 of 2016 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CR No.7156 of 2016 (O&M)

Date of decision:26.10.2016

Raj Kumar Aggarwal

... Petitioner

Vs.

Uttari Haryana Bijli Vitran Nigam Limited

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Ms. Armaan Saggar, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

Petitioner-plaintiff is aggrieved of the impugned orders dated 22.04.2016 and 06.10.2016, whereby, an application moved under Order 39 Rules 1 and 2 of Code of Civil Procedure (hereinafter referred to as “CPC”), seeking ad interim stay in a suit challenging the action of the Electricity Board qua raising of the demand owing to theft of electricity, has been dismissed by the trial Court, much less, by the Lower Appellate Court.

This case had come for preliminary hearing on 24.10.2016. After hearing the arguments of Ms. Armaan Saggar, at some length which she raised with full eloquence and vehemence, the Court confronted with the judgment dated 29.08.2016 rendered by this Court in Regular Second Appeal No.5811 of 2015 with regard to maintainability of the suit, in view of the embargo under Section 145 of the Electricity Act, 2003.

Today Ms.Armaan Saggar, Advocate after obtaining instructions from her client submits that her client may be permitted to withdraw the suit with a liberty to approach the competent authority, in

view of the ratio decidendi culled out by this Court in the judgment referred above.

I am of the view that it would be total farcical exercise in pursuing the matter which is at initial stage where ad interim application has been decided as the fate of the case would have been one which has been held to be not maintainable, in view of the various other judgments including the one referred above.

The prayer of Ms. Armaan Saggar, appears to be very fair, honest and in accordance with law. Accordingly, while upholding the orders under challenge, I would not delve upon the merits of the orders under challenge but grant permission to the petitioner-plaintiff to withdraw the suit with a liberty to file the same before the competent authority as prescribed under the Electricity Act, 2003. In case, any such application changing the aforementioned demand is filed within a period of one month from today, accompanied by an application seeking condonation of delay by taking the benefit of Section 14 of the Limitation Act, the competent authority shall decide the application by taking into consideration that the petitioner has already availed the remedy in question, in essence, the question of limitation would not come in his way.

The revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

October 26, 2016
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No