

Sr. No.117

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

CWP No. 25485 of 2016

Date of decision:09.12.2016

AAPI Charitable Foundation

.....Petitioner

versus

Punjab State Power Corporation Ltd.

.....Respondent

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. Mandeep S.Sachdev, Advocate
for the petitioner.

Rakesh Kumar Jain, J.(Oral)

This petition is filed to challenge the validity of the order dated 22.09.2016(Annexure P-12) passed by the Additional District Judge, Jalandhar in a suit filed under section 154 of the Electricity Act, 2003(for short, 'the Act').

At the time, when the petitioner was heard on 9.02.2016, ad interim injunction was granted to restore the electricity connection installed in the premises of the petitioner subject to deposit ₹3,50,000/- within a period of 10 days without prejudice to the merits of the case and on compliance of Order 39 Rule 3 of the CPC.

After the respondent appeared, filed an application seeking a direction to the petitioner to deposit 50% of the disputed amount imposed on account of theft of electricity. The said application was considered in the application for injunction and ultimately order dated 22.09.2016 has been passed on the basis of the judgment of the Supreme Court rendered in the case of *W.D.S.E.E. Vs. Faqir Chand Rice Mills and ors, 1996(2)RRR 233*, in which it is held that penalty may be deposited upto 50%. Considering all

aspects, the Court instead of asking depositing 50% restricted it to 1/3rd by exercising its discretion.

Counsel for the petitioner has submitted that the impugned order is patently erroneous as the Supreme Court in the case of *W.D.S.E.E (supra)* has only used the word '*may*'.

I have heard learned counsel for the petitioner and after examining the available record, am of the considered opinion that there is no error in the impugned order as the Supreme Court has left it to the discretion of the Court to consider the deposit of the amount by issuing an ad interim injunction which may go upto 50%. However, keeping in view the aforesaid facts and circumstances, the learned court below has rightly kept it 1/3rd instead of 50%, therefore, it does not require any interference. Dismissed.

9th December, 2016

Shivani Kaushik

**[Rakesh Kumar Jain]
Judge**

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No