

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

**R.S.A No. 1664 of 2015 (O&M)
Date of decision : 22.04.2016**

Parminder Kaur @ Satinder Kaur

..... Appellant

Versus

Punjab State Power Corporation Ltd. And others

..... Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Inderjit Sharma, Advocate
for the appellant.

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

DARSHAN SINGH,J

The present appeal has been preferred by the appellant-plaintiff against the judgment and decree dated 09.12.2014 passed by the learned Additional District Judge, Bathinda, whereby the appeal filed by the appellant-plaintiff against the judgment and decree dated 07.11.2013 passed by the learned Additional Civil Judge (Sr. Division), Bathinda, has been dismissed.

- 2. For the sake of convenience, the status of the parties is being mentioned as in the original suit.**

3. Appellant-plaintiff has filed the suit for mandatory injunction directing the respondent-defendants to remove the electricity poles and electric wires installed in the land owned by the plaintiff comprised of khasra no. 140//18, 19, 20 situated adjoining to Nathana-Bhagta road situated in revenue estate of village Dialpura Mirza, Tehsil Phul, District Bathinda.

4. As per averments in the plaint, the land of the plaintiff detailed above falls on two roads. For the protection of crops, the plaintiff had fixed the barbed wire around the said land. The transformer already exist at point "O" shown in the site plan and the said transformer is just on the corner of the road. The defendants have no right to install or erect the electric poles in the land of any farmer against any scheme and in arbitrary manner. However, defendants no.2 and 3 without any prior sanction scheme, without any notice to the plaintiff and without acquisition of her land removed the barbed wire to cause loss to the crops of the plaintiff in khasra no. 140//18, 19 and 20. Instead of installing the poles on side of the road, they had erected the same in the land of the plaintiff and had put the electric wires and connected the same with transformer TF-2 at point "M". The said act of the defendants is arbitrary, without any competence or jurisdiction and with a view to cause the economic loss to the plaintiff. Hence, the suit.

5. Defendants-respondents contested the suit on the plea that they had full right to install the poles, transformers and to lay the wires to supply the electricity to the consumers as per rules and regulations of the department. The poles and transformer were installed as required for

giving connections to the consumers under B.P.L Scheme, which was launched under Rajiv Gandhi Yojna to supply electricity to poor persons. It was further pleaded that sanction of the scheme was only required when the supply is to be given at large. There was no need of acquisition of the land of the plaintiff. No irreparable loss has been caused to the plaintiff. With these pleas, defendants-respondents pleaded for dismissal of the suit.

6. From the pleadings of the parties, the following issues were framed by the learned trial Court:-

1. Whether the plaintiff is entitled for mandatory injunction as prayed for?OPP
2. Whether the suit is not maintainable?OPP
3. Whether this Court has jurisdiction ?OPP
4. Relief?OPP.

7. On appreciating the material on record and the contentions raised by learned counsel for the parties, the learned trial Court dismissed the suit filed by the plaintiff-appellant, vide impugned judgment and decree dated 07.11.2013.

8. Aggrieved with the aforesaid judgment and decree, appellant-plaintiff has preferred the appeal and the same was also dismissed by the learned First Appellate Court, vide impugned judgment and decree dated 09.12.2014. Hence this Regular Second Appeal.

9. I have heard Mr. Inderjit Sharma, Advocate, learned counsel for the appellant and have meticulously gone through the paper book.

10. Initiating the arguments, learned counsel for the appellant contended that it is an admitted fact that no scheme was got sanctioned

before erecting the electric poles and electric line in the land of the appellant-plaintiff. Her land was also not acquired nor any compensation was given to her. Thus, he contended that the action of the defendants is arbitrary, illegal and has resulted in economic loss to the plaintiff. So, the plaintiff is entitled for the mandatory injunction directing the respondents to remove the electric poles and electric line from her land.

11. I have duly considered the aforesaid contentions.

12. There is no dispute with respect to the ownership of the land in question. It is also not disputed that the electric poles and line for supply of the electricity has been installed by the defendants. The witnesses examined by the plaintiff have simply deposed that the poles have been illegally installed in the land owned by the plaintiff. DW-1 Gurjant Singh, Junior Engineer has deposed that the poles have been installed as per rules of the department under B.P.L. Scheme, which was granted under Rajiv Gandhi Yojna to supply electricity to the consumers. PW-1-Rajvir Kaur has also admitted in the cross-examination that electric connections were released by the defendants to the poor persons in the village and the electricity board had installed the poles to supply the electricity to those persons in the village. So, there is no denial to the fact that the respondents-defendants have erected the poles and electric line in the larger interest of the poor section of the society with a view to supply them the electricity. Undisputedly, the defendants are empowered under the relevant provisions of the law to erect poles and lay electric line in the land of even the private persons. The only remedy which that private person has in whose land the electric poles have been erected and electric

wire has been installed is to get compensation from the said authority. Learned trial Court has observed that DW-1 Gurjant Singh, Junior Engineer has brought the scheme at the time of his cross-examination and the said scheme was implemented in the year 2010. It was further observed by the learned trial Court that no fact has been brought on record by learned counsel for the plaintiff during cross-examination of that witness that installation of the poles and electric wires has not been in terms of the scheme prepared by the Board.

13. In case **Dr. Mohan Lal Vs. Haryana State Electricity Board, Chandigarh and ors. 1989(2) PLR 380**, this Court has laid down that the notice to the individual persons affected by scheme is not required. However, the person interested whose rights in the property have been adversely affected has a right to receive compensation by making necessary application under Section 42 of the Indian Telegraph Act before the District Judge within whose jurisdiction the property is situated.

14. In case **Power Grid Corporation of India Vs. Rajbir Singh and others 2009(5) R.C.R (Civil) 742**, this Court has laid down that Section 145 of the Electricity Act mandates that no Court shall grant any injunction in respect of any action taken or to be taken in pursuance of any power conferred by or under the Electricity Act. In the instant case also the electricity poles and line has been erected by the defendants by exercising the powers under the Electricity Act. In case **Sukhmander Singh Vs. Punjab State Electricity Board & Ors. 2010(7) R.C.R (Civil) 583** also this Court has laid down that the electricity board is

empowered under the relevant provision of law to erect the poles and lay lines in fields of the private person. The only remedy available to the aggrieved person is to claim compensation.

15. In view of the aforesaid legal position, no mandatory injunction can be issued directing the defendants to remove the electricity poles and electric lines in dispute. Thus, no case is made out to interfere with the concurrent findings recorded by the learned Courts below.

16. Consequently, the present appeal being devoid of merits, is hereby dismissed with no orders as to costs.

April 22, 2016

s.khan

(DARSHAN SINGH)

JUDGE