

RSA No. 1123 of 2014

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

RSA No. 1123 of 2014

Date of Decision: January 18, 2016

Jasbir Singh

...Appellant

Versus

Punjab State Power Corporation Limited & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Anil Chawla, Advocate
for the appellant.

AUGUSTINE GEORGE MASI, J. (Oral):

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division), Amritsar, dated 08.03.2013, whereby, the suit for permanent injunction restraining the respondent-defendants from fixing the electricity poles in the land of the appellant-plaintiff illegally and to supply the power by putting the electric wire in the poles and mandatory injunction directing the respondent-defendants to draw the electricity line according to the sanctioned site plan prepared by the departments, has been dismissed, appeal against which preferred by the appellant-plaintiff stands dismissed by the Additional District Judge, Amritsar, on 24.10.2013.

It is the contention of the learned counsel for the appellant that in the cross-examination, Jagwinder Singh, Junior Engineer, who appeared as DW-1, has admitted the fact that the electricity poles have not been affixed as per the sanctioned plan by the respondent-defendants. He contends that in the light of the said admission on the part of the witness of the respondent-defendants, the findings as recorded by the Courts below that the plaintiff is not entitled to the injunction as prayed for, cannot sustain. He further contends that the findings recorded with regard to the entitlement of the appellant-plaintiff for compensation alone and not for injunction, again is contrary to the admitted facts on record especially when the sanctioned plan was required to be followed by the respondent-defendants. He, thus, prays that the judgments and decree passed by the Courts below cannot sustain and deserve to be set aside and the suit of the appellant-plaintiff decreed.

I have considered the submissions made by the learned counsel for the appellant and with his assistance, have gone through the impugned judgments.

As regards the findings recorded by the Courts below with regard to the entitlement of the appellant-plaintiff for compensation alone and not for injunction, suffice it to say that the same has been held as per the judgment passed by the Gujarat High Court in

Manojbhai Dasrathbhai Patel and Anr. Vs. Power Grid

Corporation of India Ltd. and others 2011 (2) R.C.R. (Civil) 422.

In the light of the settled principle of law, the findings recorded by the Courts below as the appellant-plaintiff is not entitled for injunction to restrain the defendants from fixing the poles in his land, cannot be faulted with.

It may be mentioned here that as per the evidence brought on record, an admission has been made on the part of the appellant-plaintiff that the poles were affixed prior to the filing of the suit. If that be so, the injunction as prayed for on this count, also is not sustainable. It may be added here that although Jagwinder Singh, Junior Engineer (DW-1) has stated that the poles were not affixed as per the sanctioned site plan, however, it has come on record and on the basis of the documents which have been placed on record, it is apparent that the poles were, as a matter of fact, affixed in the land of the appellant-plaintiff which he illegally uprooted and keeping in view the urgent need, the respondent-Power Corporation was forced to shift these uprooted poles to other places with the consent of the Panchayat, thus, poles were affixed with some deviation to supply electricity to the consumers in public interest. The Courts are right in observing that the deviation has occurred because of the illegal uprooting of the poles by the appellant-plaintiff from his land which cannot be made the basis for giving an injunction to him as has been prayed for especially when

the benefit which is being sought by the appellant-plaintiff is based upon an illegal act on his part. A person who has approached the Court with unclean hands and with a *male fide* intention especially when he has himself indulged in the illegal acts, cannot be granted an equitable relief of injunction. He cannot be allowed to take and reap the benefit of his own wrong and the Courts cannot be a party to it. The findings, thus, recorded by the Courts below cannot be faulted with.

A perusal of the impugned judgments would show that the concurrent findings returned by both the Courts below are based on proper appreciation of the pleadings and the evidence brought on record which do not call for any interference by this Court as there is no misreading or non-consideration of the material on record nor is there any perversity or illegality in the same.

No substantial question of law arises in the present appeal which requires consideration of this Court. Therefore, finding no merit in the present appeal, the same stands dismissed.

January 18, 2016

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**