

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CR No.3120 of 2017
Date of decision:2.5.2017**

Mukhtiar Singh

...Petitioner

Versus

Sukhchain Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Pardeep Bajaj, Advocate for the petitioner.

Mr.Raman Gokalney, Advocate for the caveators-respondents.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the impugned order dated 15.2.2017 passed by the learned Additional District Judge, whereby miscellaneous appeal of the defendants against an order dated 31.8.2016 of the learned trial Court granting ad interim injunction in favour of the plaintiff-petitioner in his suit for permanent injunction, was allowed setting aside the order dated 31.8.2016 of the learned trial Court, plaintiff has approached this Court, by way of instant civil revision petition filed under Article 227 of the Constitution of India, for setting aside the impugned order dated 15.2.2017 (Annexure P-1).

Heard learned counsel for the parties.

It is a matter of record that plaintiff-petitioner has filed a suit for permanent injunction, restraining the defendants from forcibly and illegally installing new electric line through the land of the plaintiff.

Plaintiff also moved an application under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure ('CPC' for short) along with his suit, seeking ad interim injunction. The learned trial Court very rightly granted interim injunction in favour of the plaintiff, vide its self-contained order dated 31.8.2016. It was recorded by the learned trial Court that plaintiff has made out a prima facie case for interim injunction. Balance of convenience was also found in favour of the plaintiff. It was also found that in case, interim injunction is not granted to the plaintiff, he shall suffer irreparable loss.

Thus, once plaintiff had fulfilled all the three basic ingredients for granting interim injunction, the learned trial court was well within its jurisdiction to pass the order dated 31.8.2016, thereby directing the parties to maintain status quo regarding installing new electric line through the land of petitioner-plaintiff. However, deciding miscellaneous appeal of the defendants, learned Additional District Judge misdirected himself, while completely misreading and misunderstanding the nature of suit filed by the plaintiff and also his compulsive necessity for interim injunction during the pendency of the suit.

During the course of hearing, learned counsel for the defendants-caveators placed before this court a site plan and a bare perusal thereof would make it crystal clear that if the electric line is permitted to be installed from point A to point B, as sought to be installed by the defendants, it will not only cause irreparable loss and injury to the plaintiff rather his suit itself would be rendered infructuous. Having said that, this Court feels no hesitation to conclude that the learned trial court was well justified in granting interim injunction to the plaintiff, whereas, the learned

first appellate court committed a serious error of law, while passing the impugned order dated 15.2.2017 (Annexure P-1) and the same cannot be sustained.

Careful perusal of the site plan will also show that if at all electric line was to be installed by the defendants, it could have been easily installed on the killa line, which shall certainly avoid the bifurcation of land of the plaintiff. Wastage of land shall also be avoided and interest of nobody shall be prejudiced. Defendants will get their electric line installed and plaintiff shall also not feel prejudiced. Further, it does not appeal to reason as to why the defendants were insisting on taking the electric line from point A to B through and through killa of plaintiff.

In case defendants are permitted to install the electric line at this very stage, hardly anything would be left to be decided in the suit of the plaintiff and it shall cause irreparable loss to him. Under these facts and circumstances of the case, it can be safely concluded that the learned Additional District Judge committed a patent illegality, while passing the impugned order and the order passed by the learned trial Court deserves to be restored.

During the course of hearing, learned counsel for the defendants-respondents could not raise any meaningful argument in support of the impugned order dated 15.2.2017 passed by the learned Additional District Judge and rightly so, it being a matter of record. From the peculiar facts of the case in hand, it is clearly made out that plaintiff has got a strong prima facie case in his favour. Balance of convenience was also clearly in favour of the plaintiff. In case ad interim injunction was declined, plaintiff would have suffered irreparable loss and injury. Thus, the learned trial

Court rightly granted interim injunction in favour of the plaintiff, whereas learned Additional District Judge exceeded his jurisdiction, while passing the impugned order and the same cannot be sustained, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order dated 15.2.2017 passed by the learned Additional District Judge has been found to be suffering from patent illegality and perversity, it cannot be sustained. Accordingly, the impugned order dated 15.2.2017 (Annexure P-1) is hereby set aside. Consequently, the order dated 31.8.2016 passed by the learned trial Court is restored and it is ordered that the order passed by the learned trial court shall continue to operate in favour of the plaintiff till the decision of the suit.

Resultantly, with the above-said observations made and directions issued, the instant civil revision petition stands allowed, however, with no order as to costs.

2.5.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No

Whether Reportable : Yes/No