

**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**  
**Sr. No.: 111**

**Civil Revision No.3447 of 2017 (O & M)**  
**Date of Decision: May 24, 2017**

Jaswinder Kaur

.... PETITIONER

*VERSUS*

Punjab State Power Corporation Ltd. & others

..... RESPONDENTS

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**CORAM:**      **HON'BLE MR. JUSTICE JASPAL SINGH**

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**PRESENT:** -    Mr. Ashok Bhardwaj, Advocate, for the petitioner.

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**Jaspal Singh, J**

1.                    By virtue of the instant petition preferred under Article 227 of the Constitution of India, petitioner has sought setting aside of order dated December 17, 2016 (Annexure P-4) passed by the Additional Civil Judge (Senior Division), Sangrur, whereby an application moved under Order XXXIX Rule 1 & 2 CPC read with Section 151 CPC has been dismissed, as well as judgment dated January 20, 2017 (Annexure P-6) passed by the Additional District Judge, Sangrur, vide which, an appeal preferred by the petitioner against order dated December 17, 2016 has been dismissed.

2.                    While assailing the impugned orders, it has been argued with vehemence by learned counsel for the petitioner that the same are

absolutely against the evidence available on file and settled canons for governing the grant of injunction. Mis-appreciation of legal proposition as well as the documents has resulted into mis-carriage of justice.

3. Undisputably, petitioner – plaintiff is owner in possession of land to the extent of 3697/49900 share in the land comprised in Khewat No.39/40, Khatoni No.70 out of total land measuring 82 kanals 16 marlas, situated within the revenue estate of village Bhagwanpura, Tehsil & District Sangrur, the description of which has been given in the head note of the plaint. The respondents – defendants, in connivance with each other, started installing/erecting electric towers for laying 66 KV lines from Bhalwan Grid to Mangwal Grid i.e. in her fields, that too, against the sanctioned site plan/scheme & instructions of the Punjab State Power Corporation Limited (for short, ‘PSPCL’) and without any intimation to the petitioner – plaintiff. Infact, the petitioner did not in any way intend to obstruct the work in question but she is seeking indulgence of this Court that the work should be carried out as per the approved site plan. Though, respondents – defendants have asserted that the towers are being installed as per the sanctioned site plan. The site plan (Annexure P-3) relied upon by the petitioner – plaintiff clearly depicts that the towers are being erected/installed in the middle of agricultural land owned and possessed by the petitioner as is evident from the site plan as well as photographs (Annexure P-7) got prepared by the petitioner from a retired Junior Engineer (Civil). Moreover, the distance between the towers is also not as per the sanctioned or approved site plan. Even, no compensation has been assessed or awarded by the respondents – defendants regarding the loss caused to the petitioner on account of installation of electric towers and wires. Both the courts below have ignored

the report/photographs prepared by the retired Junior Engineer while dismissing the application under Order XXXIX Rules 1 & 2 CPC.

4. Learned counsel for the petitioner has further contended that the installation of electric towers is absolutely in grave violation of the rules & regulations of PSPCL and they are bent upon to cause damage to the petitioner – plaintiff just to extract illegal gratification. If the respondents – defendants succeeded in their evil design to erect/install the electric towers as well as wires, the petitioner will suffer an irreparable loss. Thus, the impugned order and judgment being against the principles governing grant of injunction are liable to be set aside. Consequently, application under Order XXXIX Rules 1 & 2 CPC deserves to be allowed.

5. After bestowing due consideration to the aforesaid submissions made by learned counsel for the petitioner and scrutinizing the impugned order/judgment and the documents available on file, this Court is of the considered view that the impugned order and judgment do not suffer from any infirmity, illegality or perversity, rather the same are absolutely in consonance with the settled principles of law governing the grant of injunction.

6. Before proceeding to decide the matter in controversy on merits, it would be desirable to highlight the extent and scope of jurisdiction of the lower appellate court or the revisional court to interfere with the order passed by the trial court in exercise of its discretion under Order XXXIX Rules 1 & 2 CPC. The extent and scope of jurisdiction was discussed at length by the Rajasthan High Court in Vimla Devi Vs. Jang Bahadur, AIR 1977 Rajasthan 196 wherein the legal proposition was summed up in the following words:-

“The order refusing temporary injunction of a discretionary character.

Ordinarily Court of appeal will not interfere with the exercise of discretion by the trial Court and substitute for it its own discretion. The interference with the discretionary order, however, may be justified if the lower Court acts arbitrarily or perversely, capriciously or in disregard of sound legal principles or without considering all the relevant records.

The mere possibility of the Appellate Court coming to a different conclusion on the same facts and evidence will also not justify interference.”

7. Similar has been expressed by this Court in Krishan Kumar v. The State of Haryana and another, 1992(1) RRR 433 (P&H) : 1992(1) Revenue Law Reporter 207, wherein this Court has observed as under:-

“A perusal of the Appellate Court’s order shows that it has not assigned any cogent reason to set aside the discretion exercised by the trial Court. The lower Appellate Court has not demonstrated as to how on admitted facts principles of law have been wrongly applied. I am, therefore, of the opinion that the lower Appellate Court was not justified in setting aside the order and interfering in the discretion exercised by the trial Court.”

8. Both the above referred judgments were further relied upon by this Court while rendering pronouncement in case Guru Nanak Education Trust v. Balbir Singh, 1995 AIR (Punjab) 290 : 1995(3) R.R.R. 721.

9. Now, in the light of the aforesaid limited jurisdiction, it is to be seen whether the impugned order and judgment being arbitrary, perverse, capricious or in disregard of sound legal principles or without considering all the relevant records, deserve any interference by this Court?

10. No doubt, the petitioner – plaintiff is owner in possession of the land in dispute which has been fully detailed & described in the head of the plaint. A perusal of the record makes it crystal clear that the distribution of power for improvement of the transmission & distribution, 66 KV (S/C

October 01, 2015 which was published in Punjab Government Gazette on March 4, 2016. The publication was also made in Punjabi newspaper in this regard. The work order for construction of 66 KV (S/C on D/C) Mangwal – Bhalwan line was issued to M/s Sukhdev Ram, resident of Patiala, on November 05, 2015. There is a specific assertion of the respondents – defendants that in toto 33 towers are to be installed as per the site plan, out of which, 28 towers have already been installed which is absolutely in consonance with the sanctioned site plan/scheme. There is a specific averment of the respondents – defendants that neither electric tower is being erected/installed in the middle of the fields of plaintiff nor any damage is being caused to the crops. The PSPCL has the right to draw lines through agricultural fields. If any person is aggrieved of any such act of the officials/officers of PSPCL or Corporation, he has right to receive compensation by raising objection in this regard before the competent authority. So, in the instant case also, case of the petitioner – plaintiff can only be remedied by way of compensation. Petitioner has liberty to file a suit for compensation for the loss of utility of her land in case electric towers have been installed and electric wires have been laid through her land.

11. It is well settled proposition of law that when an alternate remedy is available under Section 41(h) of the Specific Relief Act, 1963, no injunction can be granted. In the case in hand, both the courts below after detailed discussion and considering the pros & cons of the matter have declined the injunction sought by the petitioner – plaintiff. This Court has scrutinized the impugned order and judgment, and finds that the discretion while disposing of injunction application has been exercised by the courts below in a judicious manner. There is nothing on the record to suggest that

perversely, capriciously or in disregard of sound legal principles or without considering all the relevant records. Thus, no interference in the impugned order and judgment is called for by this Court.

12. As a net result of the aforesaid discussion, this Court is of the considered view that the instant petition is devoid of merits, and as such, the same is dismissed, whereby impugned order dated December 17, 2016 passed by the trial court as well as judgment dated January 20, 2017 passed by the lower appellate court are upheld.

13. However, any observation made in this judgment shall have no bearing on the merits of the main case which shall be decided by the trial court independently on the basis of evidence brought on record by the parties in respect of their respective pleadings, that too, without being influenced by any observation made herein.

14. No order as to costs.

**May 24, 2017**  
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**(Jaspal Singh)**  
**Judge**

Whether Speaking/ Reasoned:  
Whether Reportable:

Yes/ No  
Yes/ No