

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CIVIL REVISION No. 3973 of 2017
DECIDED ON: JUNE 01, 2017

MADAN MOHAN JINDAL

.....PETITIONER

VERSUS

PUNJAB STATE POWER CORPORATION LTD. & ANR

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Rajiv Mittal, Advocate
for the petitioner.

JASPAL SINGH, J

By virtue of instant revision preferred under Article 227 of the Constitution of India, petitioner has sought the setting aside of order dated February 03, 2017 (Annexure P-6) passed by learned Civil Judge (Jr. Division), Bathinda whereby, an execution application filed by the petitioner/decreed holder has been dismissed AS WELL AS for staying the operation of Memo No. 1098, dated April 20, 2017 (Annexure P-5) issued by Assistant Engineer, PSPL, Bathinda for the recovery of an amount of ₹4,93,260/-.

Undisputably, petitioner preferred a suit for permanent injunction restraining the respondents from illegally and forcibly recovering the amount

of ₹4,42,645/- on the basis of memo No. 766, dated March 17, 2005 as well as from disconnecting the electric connection account no. CG-24-0282 and cable wire network being operated by him from the electricity poles of the respondents. The said suit was decreed vide judgment and decree dated January 12, 2011 but with the rider that respondents will be free to raise fresh demand regarding use of poles after giving notice to the plaintiff.

Here it would also be pertinent to mention that during the pendency of afore-said suit, in compliance of different orders passed by learned trial Court, a sum of ₹1,50,000/- was deposited on two different occasions. Since the suit for permanent injunction was decreed, decree holder moved an execution application before learned trial Court for the refund of ₹1,00,000/-, which was deposited during the pendency of suit. However, respondents/JDs issued a fresh notice to the decree holder in compliance of judgment and decree dated January 12, 2011 to deposit a sum of ₹2,86,645/- after adjusting an amount of ₹1,50,000/-.

The contention of learned counsel for the petitioner that since the letter dated March 17, 2005 whereby, a demand of ₹4,42,645/- was raised, has since been set aside and the respondents/JDs were restrained from recovering the amount, which was claimed through an execution application. The dismissal of execution application is illegal and unlawful, as the petitioner was entitled to refund a sum of ₹1,50,000/-; that too, alongwith interest @ 15% as the respondents/JDs have utilised the said amount and the petitioner was deprived of its enjoyment and use.

This Court has given an anxious thought to the submissions

made by learned counsel for the petitioner but does not file any legal or factual substance therein. Moreover, this Court is of the considered view that there is no illegality or impropriety in the impugned order and the same is absolutely in consonance with the evidence available on file and settled proposition of law. No doubt the respondents were restrained from recovering the amount on the basis of memo No. 766, dated March 17, 2005 but at the same time respondents/JDs were given the liberty to raise a fresh demand with regard to the use of poles for using the cable wire network and it was only after the notice and hearing the petitioner, a fresh demand has been raised. An amount of ₹1,50,000/- which has already been deposited with the respondents/JDs has already adjusted, so there is no illegality or impropriety in the impugned order. The respondents/JDs are within their jurisdiction to adjust that amount as well as to recover the amount, which is outstanding against the petitioner for using the electric poles for the purposes of cable wire network being run by the petitioner.

In the light of what has been discussed above, this Court does not find any merit in the instant petition. As such the same is dismissed with no order as to costs.

**JASPAL SINGH
JUDGE**

JUNE 01, 2017

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Whether speaking/non-speaking *Yes/No*

Whether reportable *Yes/No*