

In the High Court of Punjab and Haryana at Chandigarh

CR No. 4954 of 2016
Date of Decision: 17.11.2017

Dakshin Haryana Bijli Vitran Nigam Limited and another

---Petitioners

versus

Sunder Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. R.S.Longia, Advocate
for the petitioners**

**Mr. Rajesh Arora, Advocate,
for the respondent**

Rekha Mittal, J.

The present petition directs challenge against order dated 31.5.2016 (Annexure P-6) passed by the Additional District Judge, Faridabad.

The sole submission made by counsel for the petitioners is that the trial court in the opening lines of the concluding para of the order impugned has recorded to the following effect:-

“In view of the aforementioned discussion and after taking into consideration the above discussed instructions, it would be appropriate for this Court to see the prima facie case before adjudicating the application for interim relief.

If the prima facie case is made out against the petitioner,

the interim application as prayed will be decided accordingly and on the other hand if respondent department is not able to establish the prima facie case against the petitioner, the interim application will be decided accordingly.”

However, in the concluding lines of the same para, it has been held, reads thus:-

“Meanwhile, the petitioner is directed to deposit an amount of Rs. 2 lacs under protest with the respondent's department and the recovery of remaining amount qua impugned assessment under bearing memo No. 151 dated 13.5.2016 (Annexure P5) shall remain stayed and respondents are directed not to disconnect the electricity connection of the petitioner or to restore the same if disconnected already, till the next date of hearing. Application under Order 39, Rules 1 & 2 CPC is disposed of accordingly. Adjourned to 1.8.2016 for filing of affidavit and for filing written statement.”

It is argued with vehemence that the aforesaid observations recorded by the court do not synchronize and runs contradictory, therefore, the impugned order is liable to be set aside and the matter may be remitted to the trial court for deciding application under Order 39 Rules 1 and 2 of the CPC afresh.

Counsel representing the respondent, on the other hand, would urge that he has got no objection if the trial court is directed to decide the application for interim injunction afresh but the petitioners should be

restrained from disconnecting electricity connection of the respondent till disposal of the said application. It is further submitted that the respondent has already deposited an amount of Rs. 2 lakhs in compliance with order dated 31.5.2016.

Perusal of concluding para of order dated 31.5.2016 substantiates contention of the petitioners that the trial court recorded contradictory observations by holding that a prima facie case is to be seen but later disposed of the application for grant of interim injunction. In this view of the matter, order impugned cannot be allowed to sustain and liable to be set aside.

For the foregoing reasons, the petition is allowed. The impugned order is set aside with a direction to the trial court to decide the application under Order 39 Rules 1 and 2 of the CPC afresh after hearing the parties, in accordance with law. However, the petitioners shall not disconnect electricity connection of the respondent till disposal of the application under Order 39 Rules 1 and 2 of the CPC. The trial court is directed to dispose of the application for interim injunction within a period of one month from the date of receipt of certified copy of the order.

(Rekha Mittal)
Judge

17.11.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No