

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

CR No.8726 of 2015

Date of Decision: 31.10.2017

Ess Jay Card Board through its proprietor Piara Singh
...Petitioner

Versus

Punjab State Power Corpn.Ltd. Patiala and others ...
Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. R.S. Bajaj, Advocate
for the petitioner.

Ms. Avin Kaur Sandhu, Advocate
for the respondents.

RAJ MOHAN SINGH, J.

[1]. This revision petition has been preferred by the petitioner against the order dated 13.11.2015 passed by Additional District Judge, Jalandhar whereby application under Order 1 Rule 10 read with Section 151 CPC was dismissed.

[2]. Petitioner filed a petition under Section 154(5) of the Electricity Act to determine liability against the petitioner in terms of theft of energy, if any, committed in the premises belonging to the petitioner. Petitioner filed a petition under Section 154(5) of the Electricity Act for declaring the demand of Rs.41,69,434/- and compounding fee of Rs.7,90,000/- raised by the

respondents vide letter dated 47 dated 13.01.2014 in respect of electricity connection account No.MS36/0010 on the basis of theft of energy, to be illegal.

[3]. In the aforesaid petition, petitioner submitted that the petitioner is having a factory of manufacturing card boards. The aforesaid electric connection was installed in the premises. On 08.01.2014, the electric connection was checked by Additional S.E. (Enforcement), Nawanshahar and ECR No.044/86 of the even date was issued and the electric meter was removed for its internal checking in ME Lab, Nawanshahar. The meter was checked on 09.01.2014 and a report was prepared finding it to be a case of theft. Bill in question dated 13.01.2014 was issued. Petitioner did not plead anything about the premises being on rent/lease with Kunwar Singh. At the time of checking, one Kunwar Singh was found at the spot. An FIR No.27 dated 12.01.2014 was registered against the petitioner as well as Kunwar Singh.

[4]. By way of application under Order 1 Rule 10 CPC, petitioners alleged that Piara Singh was running the factory under the name and style of petitioner. Due to his old age, he stopped working and gave the premises to said Kunwar Singh on rent. Thereafter, Kunwar Singh was working in the premises of the petitioner for the last 7-8 years and he was responsible

for profit and loss of the petitioner factory. Petitioner pleaded that Kunwar Singh was the actual consumer of the energy and the alleged theft was committed by him only. Since Kunwar Singh was found present at the time of inspection, therefore, he is necessary to be impleaded as party respondent in the case. Petitioner relied upon an envelope of electricity department containing show cause notice dated 03.04.2014, letter No.47 dated 13.01.2014 addressed to Kunwar Singh and inspection report of ME Lab containing signature of Kunwar Singh besides other documents on which signatures of Kunwar Singh were appearing. Perusal of all these documents/evidence would show that these documents were prepared or issued only after the date of inspection i.e. 08.01.2014, when the electric installation of the petitioner factory was checked by the officials of the department.

[5]. Apparently, premises is owned and possessed by the petitioner through its proprietor Piara Singh. Electric bills were issued in the name of Piara Singh. Petitioner through Piara Singh is the consumer as per record of the respondents. Petitioner filed the petition, wherein no such reference of giving the tenancy was made even after lodging of FIR. Petition was filed on 17.04.2014, whereas FIR had already been registered on 12.01.2014. Respondent/Department is entitled to recover

electricity consumption amount from the consumer. Any *inter se* dispute between the petitioner/Ess Jay Card Board and its alleged tenant would be subject matter of the separate proceedings between them. No relief can be granted in respect of alleged tenancy viz-a-viz the claim of the respondents. Respondent/Corporation is entitled to its dues to be recovered from the consumer of the electricity for which alleged plea of tenancy raised by the petitioner has nothing to do with the satisfaction of the claim of the respondent/Corporation.

[6]. In view of above, Kunwar Singh cannot be treated to be necessary party for the purpose of claim of the respondent/Corporation. Any dispute *inter se* between the petitioner and Kunwar Singh can be settled by them in appropriate proceedings.

[7]. For the reasons recorded above, I do not see any justification to interfere in the impugned order dated 13.11.2015 passed by Additional District Judge, Jalandhar which is not found to be suffered with any error of jurisdiction or perversity of any kind. This revision petition is accordingly dismissed.

31.10.2017

prince

Whether Reasoned/Speaking

Whether Reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No