

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

C.W.P.No.12482 of 2007 (O&M)
Date of Decision: February 02, 2017

Mohinder Pal Singh

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.K.S.Dadwal, Advocate,
for the petitioner.

Mr.Yatinder Sharma, Addl.A.G.Punjab,
for the State.

Mr.Rajiv Malhotra, Advocate,
for respondent Nos.2,3, 5 & 6.

Mr.S.S.Hira, Advocate,
for respondent Nos.7 & 8.

AMIT RAWAL, J. (Oral)

The petitioner has knocked the door of this Court for seeking
the following relief:-

“Civil Writ Petition under Articles 226/227 of the Constitution of India for issuance of appropriate writ, order or direction specially in the nature of mandamus directing the Respondents No.2 and 3 to act upon the inquiry reports submitted by the various officials on the complaints of the petitioner and thereby correct the illegal act done by the Respondent No.7 and 8 and shift the 11 KV Poles line to be installed as per the sanctioned plan approved by the Board as it is apparent from the inquiry reports and further finalise the Departmental

action against Respondent No.7 and 8 as already proposed in the inquiry report and also to pay compensation to the petitioner for the wrongful act of the Respondents.

Any other relief to which this Hon'ble Court may deem fit and proper to grant in favour of the petitioner in the facts and circumstances of the case.”

As per the stand taken by the Electricity Board, the action against the erring officials has been taken and they have been censured and one of the Officer has also died, thus, one of the grievance of the petitioner qua shifting of 11 KV line stands vindicated.

Mr.Dadwal has brought to the notice of this Court that the petitioner along with one Onkar Singh had filed Civil Suit bearing No.555 dated 27.9.2005, which stands decreed vide judgment and decree dated 28.2.2014 and the operative part of the judgment reads thus:-

“26. From the above said discussion it stands duly proved that the defendants No.3 to 7 have installed the poles from shifting the vacant site on the right side of the road to adjoining the abadi area without any justification and that too against the sanctioned estimate of P.S.E.B. This action of the defendants of stretching/installing high voltage electric wires over the above said poles in the abadi area is causing danger and risk to the lives of the inhabitants including the plaintiffs. The fact that after installation of the poles and transformer and stretching lines in the disputed area stands proved in view of the statement recorded by defendant No.3 Mukhtiar Singh himself on 12.9.2006 that supply to Village Dadiana Kalan for 24 hours on urban pattern supply has been corrected w.e.f. 1.7.2006. Therefore, the plaintiffs are held entitled to the relief

of mandatory injunction. However, the suit of the plaintiff for the relief of permanent injunction became infructuous. Accordingly, findings on issue No.5 are ordered to be returned in favour of the plaintiffs and against the defendants. Since there is no question of restraining the defendants as the defendants have already installed poles and wires near the abadi area accordingly issue No.1 become infructuous and stands disposed of accordingly.”

29. In the light of the above discussion, the suit of the plaintiffs succeeds and the same is decreed with costs for the relief of mandatory injunction in favour of the plaintiffs and against the defendants. The contesting defendants are directed to shift the 11 K.V.Line from the existing abadi area falling in front of houses of the plaintiffs and others to the other side of road, strictly in accordance with the earlier estimate No.32109 of 2003-04 dated 20.1.2004 sanctioned by Superintending Engineer, Punjab State Electricity Board/Punjab State Power Corporation Ltd.within a period of three months from the date of receipt of certified copy of this order. Decree sheet be prepared and file be consigned to the record room.”

In case the aforementioned judgment and decree has not been complied with, the petitioner would have a right to seek vindication of the grievance as per the provisions of Order 21 Rule 32 CPC or seek execution of the same and, therefore, no separate order is required for shifting of 11 K.V.line in view of the aforementioned judgment and decree.

For the grievance with regard to compensation, the petitioner is entitled to seek the same by filing a separate suit, but not in the present writ petition.

Resultantly, the writ petition is disposed of.

February 02, 2017
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(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No