

207(2 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CWP No. 7705 of 2014(O&M)
Date of decision : 01.08.2017

M/s Soma Punjab Warehousing
Pvt. Ltd.

..... Petitioner

versus

State of Punjab and others

..... Respondents

2. CWP No. 11473 of 2014(O&M)
Date of decision : 01.08.2017

M/s Soma Punjab Warehousing
Pvt. Ltd.

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr.Manjeet Singh, Advocate
for the petitioner.

Mr.Saurav Khurana, DAG, Punjab.

Mr. Vikas Chatrath, Advocate
for respondents No.2 to 5.

RAKESH KUMAR JAIN, J. (Oral)

This order shall dispose of two writ petitions bearing CWP Nos.
7705 and 11473 of 2014, as the issue involved in these petitions is common.

For the sake of convenience the facts are being extracted from CWP No.

7705 of 2014, M/s Soma Punjab Warehousing Corporation Pvt. Ltd. versus State of Punjab and others.

In short, the petitioner-company obtained permission for Change of Land Use from the department of Town and Country Planning, Punjab for the purpose of constructing warehouse at village Rudhianwali, Tehsil and District Sri Muktsar Sahib (Punjab). While the construction was in progress, the respondents informed that a transmission line is being laid down and in that passage, the land/property of the petitioner would fall. The petitioner is stated to have filed a reply on 26.12.2012 alleging that the godowns are being constructed after taking due permission and have to be constructed in a time bound manner as they have to be handed over to the Town and Country Planning Department. In any case, there is a letter on record dated 30.04.2013 purported to have been written by one Ripu Daman on behalf of the petitioner in which it has been averred that “request for change of route so as to avoid crossing of line through Soma Agro Station. A formal application along with prescribed fee will be submitted to you.” It is submitted that notification dated 18.01.2013 was issued by which objections were invited from the interested persons against laying down of the transmission line but before that the construction was practically over. The grievance of the petitioner started when the respondents issued a letter dated 18.03.2014 to deposit a sum of ₹ 1,20,41,995/- for shifting of 220 KV line D/C on D/c from 400 KV S/S Muktsar to 220 KV S/S Ghubaya. The petitioner has controverted the said decision of the respondents as it is reflected in its prayer, where, vide letter dated 18.03.2014 and 31.03.2014 it was written to the petitioner for depositing the aforesaid amount within a period of 7 days.

At the time of preliminary hearing, the counsel made the following contention on the basis of which the Court thought it fit to set the law into motion by issuing notice to the respondents:-

“Learned counsel for the petitioner has referred to the judgment of Hon'ble the Supreme Court in a case of M.D., M/s Ramakrishna Poultry P. Ltd. v. R.Chellapan, 2011(3) SCC (Civil) 709 to contend that after re-scheduling was done on request made by the petitioner, he could not be compelled to make the payment.

Notice of motion for 20.05.2014.

Process dasti as well.

In the meantime, respondents shall lay the lines on the re-schedule plan but not insist the petitioner to deposit the amount for re-schedule plan.

The petitioner shall also place on record the re-schedule plan on or before the next date of hearing.”

The petitioner has taken the stand before this Court that they are not liable to pay because the re-scheduling was not done on their request. It is submitted that the letter dated 30.04.2015(Annexure P-1) was not at the instance of the company/petitioner but by some employee of the company who was not duly authorised.

On the other hand, learned counsel for the respondents has submitted that the petitioner cannot be allowed to blow hot and cold in the same breath as at the time of seeking notice of motion, a specific contention was raised by the petitioner that the re-scheduling was done on their request but their case was that they would not be liable to make the payment and now they have taken a somersault by alleging that even the re-scheduling was not done on their request.

I have heard learned counsel for the parties and perused the available record and am of the considered opinion that the contention of petitioner cannot be accepted, to the extent, that there was no request on their part for the re-scheduling which means re-routing the transmission line. For a moment, even if it is presumed that the letter Annexure P-10 was not at the instance of the company or some concession was given by some employee of the company who has agreed that they are ready and willing to pay the compensation for change of route but this contention by the petitioner before this Court that the re-scheduling was done on their request but they are not ready to make the payment, cannot be ignored. Had this contention not been there, this Court would not have issued notice of motion or might have dismissed the petition finding no merit therein but once this statement was made by the petitioner that though the re-scheduling was got done by them but they are not ready to make the payment, yet the Court thought it fit to ask the respondents as to in such a situation whether the petitioner is liable to make the payment or not? However, the petitioner has totally changed its stand by denying that the re-scheduling was not done on their request which cannot be accepted at all. Thus, it is very unfortunate that company of this standard is playing hide and seek with the Court and changing its stand just for money and harming its goodwill. Thus in the given facts and circumstances, I have no hesitation to hold that the letter Annexure P-10 was also at the instance of the company because it has been reiterated by the petitioner-company at the time of issuing of notice of motion before this Court that the re-scheduling was done on their request. Now the question arises as to whether the petitioner is liable to pay compensation or not in such circumstances where the route is changed at the

instance of a person who is facing difficulty, the costing has to be done again by the transmission licensee. For example, the time when the route was originally approved, at that time the cost of that route must have been prepared by the transmission licensee and when the route is changed or diverted, the costing has to be done again for which the transmission licensee /respondent had thought that they would have to incur another sum of ₹ 1,20,41,995/- and the said amount is being claimed from the petitioner. I do not find any reasons to interfere in this petition and also condemn the conduct of the petitioner.

Petition is dismissed.

(RAKESH KUMAR JAIN)
JUDGE

August 01, 2017
sunita

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No