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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 20.02.2017

1.

CWP-3369-2017

Hari Dev

... Petitioner

Versus

The Presiding Officer, Permanent Lok Adalat (Public Utility Services)
S.B.S. Nagar and others

... Respondents

2.

CWP-3376-2017

Hari Dev

... Petitioner

Versus

The Presiding Officer, Permanent Lok Adalat (Public Utility Services)
S.B.S. Nagar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vivek Salathia, Advocate
for the petitioner(s).

AMIT RAWAL, J. (ORAL)

This order of mine shall dispose of two writ petitions bearing

CWP No.3369 of 2017 titled as **“Hari Dev V/s The Presiding Officer,
Permanent Lok Adalat (Public Utility Services) S.B.S. Nagar and others”**

and **CWP No.3376 of 2017** titled as **“Hari Dev V/s The Presiding Officer,
Permanent Lok Adalat (Public Utility Services) S.B.S. Nagar and others”**,

filed at the instance of the petitioner, namely, Hari Dev against the

impugned order/award dated 14.02.2017 (Annexure P-1) passed by the Permanent Lok Adalat, whereby an application for directing the respondent(s) to restore the electricity connection in respect of two shops has been dismissed on the premise that the owner of the property, vide Will dated 16.05.2013 intended to bequeath the ownership of the aforementioned property. However, on the basis of the Will, the Electricity Board had given the electric connection in the name of the petitioner. Owing to the certain differences and disputes, the Will, aforementioned, was revoked on 07.04.2015 and an application was moved for disconnection of the electric connection on the premise that there was no implied consent of the owner and the power connection was disconnected on 15.09.2015. In this regard, the provisions of Section 22(c) of the Legal Services Authority Act, 1987 were invoked.

Mr. Vivek Salathia, learned counsel appearing on behalf of the petitioner in both the writ petitions submits that the status of the petitioner is, at the best, of a licensee and in that regard, a suit for mandatory injunction seeking possession of the property owing to the breach of the obligations is stated to be pending for adjudication. However, electric connection cannot be disconnected to the occupier, as per the provisions of Section 43 of the Electricity Act, 2003 (for short 'the Act'). The authorities granted the electric connection after verifying all the documents brought on record and therefore, the electric connection could not have been disconnected. For restoration of the aforementioned contention, the indulgence of the Lok Adalat was sought. The order of the Lok Adalat, while dismissing the application, exceeded the jurisdiction by holding that all the documents i.e. Aadhaar Card, Voter Card etc., cannot *prima facie* be

treated to be a genuine one.

He further submits that such finding of the Lok Adalat affects the right of defence in a pending suit. No person can be deprived of the basic amenities, thus, the order under challenge is liable to be set aside.

He submits that the petitioner is willing to deposit the charges for restoration and occupation charges till the pendency of the suit.

I have heard the learned counsel for the petitioner and appraised the paper book. The conceded position on record is that on the basis of the Will, the petitioner had got the electric connection. The Will has been revoked. The bequeather/testator is alive. The provisions of Section 43 of the Act and the explanation attached thereof, reads thus:-

"Section 43. (Duty to supply on request): - (1) *[Save as otherwise provided in this Act, every distribution] licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:*

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission:

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

[Explanation. - For the purposes of this sub-section, "application" means the application complete in all respects

in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances.]

(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1) :

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

(3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default."

The aforementioned provisions of Section 43 of the Act and the explanation attached thereto, oblige the licensee to grant the electric connection subject to confirming certain obligations regarding the payment of the necessary charges and other compliances in the appropriate forms. Once the owner has not been given the consent, the Electricity Board by realizing that the connection was obtained by giving incorrect particulars/intimation, disconnected the connection. The findings dismissing the application are perfectly legal and justified. Since the status of the petitioner is of a licensee, he can on his own volition settle with the owner or vacate the premises, instead of unnecessarily contest the suit on the one reason or the other and face the wrath of non-facility of the electricity supply.

There is no force in the contentions of Mr. Vivek Salathia,

learned counsel appearing on behalf of the petitioner with regard to the maintainability of the application of the owner before the Lok Adalat. Be that as it may, the fact remains that a person, who has no right to retain the possession, had obtained the connection on incorrect particulars/intimation, the authorities are well within their right to disconnect the electric connection.

For the foregoing reasons, I do not find any illegality and perversity in the findings under challenge, much less, no ground for interference is made out and accordingly, the present writ petitions are dismissed.

20.02.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No