

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

FAO No.6523 of 2017(O&M)

Date of Decision:-28.09.2017

Gurpreet Singh.

.....Appellant.

Versus

**Dakshin Haryana Bijli Vitran Nigam Ltd. through its Managing
Director at Hisar & Ors.**

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Gaurav Aggarwal, Advocate for the Appellant.

JASWANT SINGH, J.

Appellant-plaintiff is in second appeal aggrieved against the order dated 16.09.2017 passed by learned Additional District Judge, Sirsa, whereby his application under Order 39 Rules 1 & 2 CPC for restraining the respondent-Electricity Department from recovering the impugned penal amount during the pendency of the suit filed by him and consequently restraining the department from disconnecting his electricity connection, has been partly allowed, by passing a conditional order whereby he has been directed to deposit 50% of the amount, that respondent-department intends to recover vide two impugned memos dated 23.08.2017, within a period of 10 days of passing of the order.

Learned Counsel for the appellant has argued that learned Court below has wrongly relied upon the checking reports and memo(s)

prepared by the respondent-electricity department, being against the

principles of natural justice. It has been further argued that a bare perusal of the checking reports would otherwise show that it has been wrongly mentioned therein that electricity meter is installed outside the premises of appellant, whereas, in actual, the said meter is installed at the electric pole where transformer is installed. It is further submitted that infact, electricity meter of one Balbir singh, whose premises is situated in proximity to the premises of appellant, was checked, in which alleged irregularities were found. Thus, prayer has been made for setting aside the impugned order dated 16.09.2017 and consequently, allowing the application of appellant for temporary injunction in toto, without any condition.

After hearing learned Counsel for the appellant and perusing the paper book with his able assistance, this Court is of the considered view that the present appeal is devoid of any merit and deserves to be dismissed.

In the present case, the entire dispute revolves around the fact as to whether there was direct supply to the unit run by plaintiff-appellant or not. At this stage, prima facie, there is a checking report no.28 dated 22.08.2017 on record, as per which, it was found in presence of two independent persons that there was indeed direct supply going to the Unit being run by plaintiff-appellant. Consequently, two memos dated 23.08.2017 were issued by the department concerned, whereby through first memo, appellant-plaintiff was directed to pay Rs.15,46,652/- as damages caused to Nigam and through second memo issued on same date, plaintiff was directed to pay Rs.4,90,000/- as compounding fee.

'*Prima facie*', sanctity is attached to the official documents produced by a Government Department, as they are deemed to have no 'adverse interest' to a private person. However, the said presumption is

rebuttable one and it is only on the basis of preponderance of evidence led by both the parties during trial, that the Court can come to a definite conclusion, as to whether the checking report or consequent memos are valid and legal or not. At this initial stage, court cannot go into the said questions and literally decree his suit, which are otherwise a matter of trial. On equity as well, the trial Court has rightly directed the appellant to deposit the amount with the respondent-department and in case he is able to prove his case, the amount deposited would be adjusted towards subsequent electricity charges. Hence rights of plaintiff-appellant have been duly protected by the Court below which balances the equities amongst the parties to the lis. Consequently, the order passed by the trial Court does not suffer from any infirmity or illegality and, therefore, the same is hereby affirmed.

In view of the above, finding no merit in the present first appeal, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

September 28, 2017
Vinay

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