

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Letters Patent Appeal No. 81 of 2017 (O&M)
Date of Decision: 21.3.2017

Gulabjit Singh ..Appellant

versus

State of Haryana and others ..Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. J.S.Cooner, Advocate, for the appellant.

RAMENDRA JAIN, J.

1. By way of this Letters Patent Appeal under Clause X of the Letters Patent, the appellant has assailed the impugned orders dated 26.9.2016 and 27.10.2016 passed by the learned Single Judge dismissing Civil Writ Petition No.5304 of 2016 filed by the petitioner (appellant herein) and disposing of Civil Misc.Application No.13020-CWP of 2016, in CWP No. 5304 of 2016, whereby prayer for recalling of order dated 26.9.2016 was made.

2. Put pithily, the official respondents of Haryana Vidyut Prasaran Nigam Limited entered in the Contract Agreement/Resettlement & Rehabilitation Action Plan dated 1.07.2014 (Annexure P-2) with M/s K Ramachandra Rao Transmission and Projects Private Limited, Hyderabad (respondent no.4) for the construction of Towers and Transmission Lines leading from village Sonta to village Sonda, District Ambala. As per the aforementioned contract agreement, the names of the nearest villages along

with the transmission lines were shown as “Sonta, Thol, Jugian, Neya Segti, Kelaren, Addo Majra, Khwaspur, Sulhraon, Gobindgarh, Martoi, Bhanukheri, Ladan, Dhurala Matheri Jatan and Sonda”. As per clause 3.2.1 of the contract agreement dated 01.07.2014 (Annexure P-2), the proposed 22.05 KM LILO line had to be erected in between the existing sub-station at Sonta to Sonda sub-station. It traverses over agricultural land of 11 villages, namely, Sonta, Kaleran, Addo Majra, Khwasipur, Sumrd, Martri, Gobindgarh, Bhanokheri, Ladana, Matehri Jattan and Soda. In order to avoid impact on human habitation, the route of the proposed line was deviated at least 2-3 KMs away from the habitations of all these villages. In compliance of the contract/ agreement between the parties, a public notice (Annexure P-3) was published in the newspaper and at serial no.14 of 66 KV Transmission Line, the names of the Sonta-Sonda are described, which reads as follows:-

<i>Sr. No.</i>	<i>Name of Line Section</i>	<i>Tentative Line Length (Kms)</i>
01 – 13	Xxxxx	Xxxxx
14	Construction of 66 KV Sonta-Sonda D/C line with 0.4 sq. inch ACSR	22

According to the appellant, the respondents started constructing Towers and Transmission Lines in total violation of the Contract Agreement/Resettlement & rehabilitation Action Plan dated 01.07.2014 (Annexure P-2) over agricultural land of village Ballana, Tehsil and District Ambala including the land bearing khasra nos.88//17 and 15/1 owned and possessed by the appellant despite the fact that the agricultural land of village Ballana does not fall in the alignment zone of the abovesaid 66 KV Transmission Line as the name of village Ballana does not figure in the list of 11 villages, as referred to here-in-above. It is further agitated by the

appellant that he submitted various complaints to the authorities concerned to stop construction of Towers and Transmission lines over the land of the appellant. Ultimately, the appellant moved an application dated 17.12.2015 (Annexure P-4) addressing to the Executive Engineer, Haryana Vidyut Prasaran Nigam Limited (respondent no.3), but no action was taken thereon.

3. Learned counsel for the appellant has vehemently contended that the learned Single Judge, while passing the impugned orders dated 26.9.2016 and dated 27.10.2016, has not taken into consideration this aspect that erection of electric lines through the land of the appellant is not justified, inasmuch as the name of the village Ballana of the appellant does not figure in the alignment zone of the transmission line as also does not figure in the Contract Agreement/Resettlement and Rehabilitation Action Plan dated 01.07.2014 (Annexure P-2) and even in the public notice (Anneuxre P-3).

4. We have heard learned counsel for the appellant and gone through the file carefully.

5. The petitioner (appellant herein), in order to redress his grievance, approached this court by filing Civil Writ Petition No.5304 of 2016, which was disposed of vide order dated 26.9.2016, which reads as follows:-

“Present: None for the petitioner.

Mr. R.K.Doan, AAG, Haryana

Ms. Divya Sharma, Advocate,
for respondents no.2 and 3.

Learned counsel for respondents no. 2 and 3, on

instructions from Shri Mahesh Kumar, Sub Divisional Officer,

HVPNL, Ambala, submits that since during pendency of the writ petition, 66 KV D/C electric line has already been erected, because there was no interim order passed by this court, present writ petition has been rendered infructuous and the same may be disposed of.

The abovesaid statement made by learned counsel for respondents no.2 and 3 has gone undisputed, as none has put appearance on behalf of the petitioner. In fact, it seems that because of completion of erection of electric line at the site, petitioner is no more interested in pursuing the present writ petition.

In view of the above undisputed fact situation obtaining on the record of the present case, instant writ petition is ordered to be disposed of, as having been rendered infructuous.”

6. Feeling dissatisfied, the applicant-appellant moved an application bearing No.13020-CWP of 2016 in CWP No.5304 of 2016 for recalling of the order dated 26.9.2016 passed in Civil Writ Petition No.5304 of 2016 filed by him. On hearing of the application, the learned Single Judge, vide order dated 27.10.2016, disposed it of by passing the following order:-

“ Present:- Mr. J.S.Cooner, Advocate,
for the applicant-petitioner

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Applicant seeks recalling of the order dated 26.09.2016, whereby the writ petition was disposed of, as having been rendered infructuous.

After hearing the learned counsel for the applicant-

petitioner, instant application is disposed of, with the observations that if the petitioner is not fully satisfied with the completion of erection of electric line at the site, he shall be at liberty to pursue his remedy, including for the compensation, if any, before the appropriate forum, in accordance with law.

Disposed of, accordingly.”

7. The learned Single Judge, while passing the order, referred to above, has granted liberty to the applicant-appellant to pursue his remedy, including for the compensation, if any, before the appropriate forum, in accordance with law. In the given circumstances, the contention raised by the learned counsel for the appellant, in our considered opinion, cannot at all be said to be sustainable, inasmuch as the relief claimed for by the petitioner (appellant herein) in Civil Writ Petition No. 5304 of 2016 filed by him, has been granted in the application bearing no.13020-CWP of 2016 in CWP No.5304 of 2016 moved by him for recalling of the order dated 26.9.2016 passed by the learned Single Judge. During the course of hearing, learned counsel for the appellant has not been able to point out any error in the impugned order dated 27.10.2016 passed in the application bearing no.13020-CWP of 2016 in CWP No.5304 of 2016 that may warrant inference by this court.

8. In view of the foregoing reasons, recorded hereinabove, we do not find any irregularity or impropriety in the orders dated 26.9.2016 and 27.10.2016 passed by the learned Single Judge and as such, the same are hereby affirmed.

9. The Letters Patent Appeal is, accordingly, dismissed.

CM No.151-LPA of 2017

10 There is a delay of 47 days in filing the appeal. Since the main appeal has been dismissed on merits, no further orders are required to be passed in the application for condonation of delay in filing the appeal and the same is left open.

11 Registry is directed to bring this order to the notice of the respondents so as to avoid any concealment of this order by the appellants.

(RAMENDRA JAIN)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

21.3.2017
VK

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| 1. | Whether speaking/reasoned | Yes/No |
| 2. | Whether reportable | Yes/No |