

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

CR No.1138 of 2018

Date of Decision:20.02.2018

**Uttar Haryana Bijli Vitaran Nigam Ltd.
and another**

.....Petitioner

Vs.

Ravinder Chaudhary

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Pritam Singh Saini, Advocate
for the petitioner.

RAMENDRA JAIN, J. (Oral)

Through this revision petition filed under Article 227 of the Constitution of India, challenge has been laid to the order dated 28.10.2017 (Annexure P.5) of the First Appellate Court affirming the order of the trial Court dated 05.07.2017 (Annexure P.4) directing the appellant- Nigam to provide electricity connection to the respondent-plaintiff within 15 days. upon application of the respondent- plaintiff under Order 39 Rules 1 and 2 read with Section 151 CPC.

In nutshell, respondent- plaintiff being an auction purchaser of the premises in dispute in a public auction by the Bank applied for electricity connection which was refused by the appellant- Nigam on the ground that unless and until arrears amounting to ₹ two lacs of the previous owner towards electricity consumption charges are being paid, no electricity connection can be restored or given to him.

Being aggrieved, respondent- plaintiff approached the Civil

Court for directing the appellant- Nigam to issue him electricity connection, wherein, upon his application under Order 39 Rules 1 and 2 read with Section 151 CPC, the trial Court as well as the First Appellate Court directed the appellant- Nigam to provide a electricity connection to the respondent- plaintiff vide impugned orders Annexures P.4 and P.5.

Learned counsel for the petitioner while drawing attention of this Court towards Clause 21-A of the Sales Circular dated 16.01.2013 and referring to a judgment of Hon'ble the Apex Court in **Dakshin Haryana Bijli Vitran Nigam Ltd. v. M/s Paramount Polymers Pvt. Ltd.**, 2007(1) R.C.R. (Civil) 396 urged that both the Courts below have failed to appreciate that in view of the above clause 21-A of the Sales Circular, no new connection could be given to the respondent- plaintiff.

Having given considerable thoughts to the submissions made by counsel for the petitioner, I find that the instant revision is completely devoid of any merit for the reasons to follow:-

The Apex Court In **Dakshin Haryana Bijli Vitran Nigam Ltd.'s case (supra)**, while remanding the matter to this Court did not give any finding qua Clause 21-A of the Sales Circular of the appellant, rather it simply observed that in case, this Court accepts the challenge of the first respondent to Clause 21-A as inserted in the terms and conditions of the supply, the appellant will refund the amount of ₹ twenty five lacs with 6% interest thereon from the date of payment by the first respondent till the date of its return to the appellant. In case, the writ petition is dismissed by this Court, the appellant would be entitled, at the volition of the first respondent to adjust the amount of ₹ twenty five lacs towards the dues claimed from the

previous consumer and maintain the fresh connection given to the first respondent on its fulfilling obligations in terms of Clause 21-A and act on that basis. Meaning thereby the matter regarding validity of Clause 21-A was left open to be decided by this Court. Therefore, no benefit of the said authority can be given to the petitioner more particularly, when in a latest judgment subsequent to the aforesaid citation relied upon by learned counsel for the petitioner, titled as, **Paschimanchal Vidyut Vitran Nigam Ltd. and others v. DVS Steels and Alloys Pvt. Ltd. and others**, AIR 2009 SC 647, Hon'ble the Apex Court has held that the amount payable towards electricity dues does not constitute a charge upon the premise. The respondent- plaintiff as an auction purchaser is not bound by the contract in between the appellant- Nigam and the earlier defaulted consumer. He cannot be prima-facie liable for the dues if any, recoverable from the previous consumer.

I have gone through the orders of both the Courts below and find no illegality and perversity in the same. Accordingly, this petition is dismissed with the observation that the trial Court would deal with Clause 21-A of the Sales Circular referred to above by learned counsel for the petitioner at the time of final adjudication of the suit as to whether the said clause has any binding effect upon the petitioner- plaintiff.

February 20, 2018
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(RAMENDRA JAIN)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No