

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

**C.R. No.1808 of 2018
Date of Decision.19.03.2018**

Kapil

.....Petitioner

Vs

SDO Dakshin Haryana Bijli Parsaran Nigam Ltd. and others ...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Balraj Gujjar, Advocate
 for the petitioner.

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AMIT RAWAL J.(ORAL)

The petitioner-plaintiff is aggrieved against the impugned order dated 27.02.2018 whereby the appeal preferred by the Electricity Board against the order dated 11.09.2017 passed by the trial Court injunctioning the Board from laying overhead high tension electricity line, has been allowed by reversing the finding of the trial Court.

Mr. Gujjar, learned counsel appearing on behalf of the petitioner-plaintiff submitted that the plaintiff filed the suit for permanent injunction restraining the defendants from laying down high tension electricity wires from his land along with application under Order 39 Rule 1 and 2 CPC. The trial Court on consultation of material placed on record allowed the application by injunctioning respondents-defendants from laying electricity line from the fields of the plaintiff, however, they can lay electricity line from any place of their desire which would be the shortest straight path resulting into minimum expenditure to the defendants. The said reasoned order was based on the premise that the Electricity Department wanted to give benefit to one J.E. of their department namely Balbir Singh, whose land was situated 500 mtrs away. Earlier the mother of the petitioner, Smt. Sheobai, co-sharer in the property had filed the similar suit but the same was disposed of on the basis of the stand of

Electricity Board that they would not deviate from laying down the electricity lines but fresh cause of action accrued as the Department deviated from the previous stand, thus, there is abdication, much less, illegality and perversity.

I have heard learned counsel for the petitioner and appraised the paper book. The facts noticed above are not in dispute. The only point to be seen by this Court is whether fresh cause of action in favour of the petitioner-Kapil son of Sheobai, being co-sharer in the land in dispute, had accrued to claim the ad interim injunction in the suit for permanent injunction, owing to the fact that the defendants deviated from the previous site plan or not, the answer to the aforementioned question is in negative, for, the counsel for the petitioner-plaintiff has not been able to controvert the finding rendered by the lower Appellate Court with regard to the fact that no material had been placed on record to show that the Electricity Board had deviated from the previous site plan, which was the course adopted by them for the purpose of laying down the high tension electricity lines and the previous suit filed by Sheobai was disposed of. Had it been otherwise, perhaps there could have been force in the aforementioned argument.

In my view, the petitioner-plaintiff had not been able to make out a case within the parameters of Order 39 Rule 1 and 2 CPC to enable this Court to grant the discretionary relief. I do not find any illegality and perversity in the order under challenge, much less, the same cannot be said to be passed without jurisdiction. No ground for interference is made out. The revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

March 19, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No