

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 109

CR-1828-2018 (O&M)

Date of decision : 06.12.2018

Yogesh Kumar

..... Petitioner

VERSUS

DHBVN, Manesar

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Rakesh Dhiman, Advocate, for the petitioner.

Mr. B. R. Mahajan, Senior Advocate, with
Mr. R. S. Longia, Advocate, for the respondent.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 10.10.2017, passed by the Civil Judge (Junior Division), Gurugram (for short, the Trial Court), through which an application filed by the petitioner seeking therein interim injunction has been partly allowed. Also under challenge is the order dated 17.02.2018, passed by the Additional District Judge, Gurugram (for short, the Appellate Court), dismissing the appeal filed by the petitioner against the aforesaid order of the Trial Court.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the petitioner had filed a suit seeking therein a declaration to the effect that an amount of ₹76,872/-, reflected in the bill dated 16.09.2017, raised by the respondent/defendant, is illegal. Permanent injunction to restrain the respondent from recovering the aforesaid amount was also sought. The respondent was further sought to be enjoined from disconnecting the petitioner's electricity connection. Alongwith the suit, an application under Order 39 Rules 1 and 2 CPC was filed by the petitioner seeking therein interim injunction to the effect that

during the pendency of the suit the respondent be restrained from recovering the aforesaid amount and from disconnecting his electricity connection. On being put to notice, the respondent appeared before the Trial Court. On the very first date the Trial Court heard both the parties on the issue of interim injunction and subject to the petitioner paying 50% of the disputed amount within one week as also paying of current bills regularly, restrained the respondent from disconnecting the electricity connection of the petitioner. The petitioner challenged the aforesaid order by way of an appeal which was dismissed by the Appellate Court on 17.02.2018, giving him a cause to knock the doors of this Court through the present petition.

Learned counsel for the parties have been heard.

The case set up by the petitioner is that ₹76,872/- has wrongly been added by the respondent to the electricity bill dated 16.09.2017 served upon him as according to him it was not possible for him to have consumed electricity for such an amount. On the other hand, the case of the respondent is that in the premises in question where the petitioner resides earlier there was a meter in the name of one Nawal Kishore, who is the petitioner's uncle. Nawal Kishore had failed to pay his electricity dues leading to disconnection of his electricity connection. Thereafter the petitioner, without disclosing that the earlier electricity connection installed in his premises had been disconnected for non-payment of dues, applied for and got a new electricity connection in the same premises in his name. Since qua the same premises electricity charges amounting to ₹76,872/- were due, as per prevalent Rules of the respondent, such dues were added in the electricity bill served upon the petitioner.

Whether the petitioner as a subsequent transferee of the same premises is liable to pay the disputed amount is yet to be finally adjudicated upon and this Court is of the view that both the Trial Court as also the Appellate Court, in the facts of the present case, to prevent disconnection of the petitioner's electricity connection, have aptly balanced the rights and equities of the parties by directing the petitioner to pay during the pendency of the suit only 50% of the disputed amount of ₹76,872/- .

In view of the above, no interference is warranted in the concurrent findings recorded by both the Trial Court as also the Appellate Court.

Dismissed.

06.12.2018
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No