

IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 2678 of 2016 (O&M)

Date of decision: 09.02.2018

Dakshin Haryana Bijli Vitran Nigam and others ...Petitioners

V/s.

Mani Ram and others ...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. Deepak Sabherwal, Advocate for the petitioners.

None for respondent No. 1.

Mr. Mohit, Advocate for
Mr. R.S. Sheoran, Advocate for
respondents No. 2 and 3.

KULDIP SINGH, J. (Oral)

Heard.

The impugned in the present revision is the order dated 07.01.2016 (Annexure P 12) passed by learned Civil Judge (JD), Ch. Dadri in a civil suit titled **Mani Ram V/s. S.D.O.-cum-Assessing Officer and others**, on an application filed under Section 190 Cr.P.C against respondents No. 1 to 3.

A perusal of the file shows that the plaintiff Mani Ram had filed a suit for declaration as a mandatory injunction regarding the dispute of tubewell connection. During the pendency of the suit before the civil Court, an application under Section 190 Cr.P.C. was filed by the plaintiff making some complaint and requesting the Court for taking action against respondents No. 1 to 3 and pass necessary orders. On the said application, the impugned order was passed whereby it was ordered that no FIR will be

lodged by the defendants department till the decision of the suit. The department is also restrained from taking any further action in the electricity theft case.

After going through the file, I am of the view that the approach of the Civil Judge, who happens to be a comparatively young officer, is wholly illegal. In a civil suit, no power under Section 190 Cr.P.C. can be exercised to pass such order and restrain the department from exercising their lawful right in lodging the FIR in case of theft of electricity and conduct the recovery proceedings. The injunction order could only be passed on an application filed under Order XXXIX Rule 1 and 2 read with Section 151 CPC 1908 after obtaining the reply and on the basis of the principle governing the grant and refusal of injunction.

The impugned order dated 07.01.2016 is patently illegal and is set aside. Keeping in view the circumstances of the case, the suit titled **Mani Ram V/s. S.D.O.-cum-Assessing Officer and others**, is withdrawn from the Court of Civil Judge (JD) Ch. Dadri and is transferred to the Court of Additional Civil Judge (S.D.) Ch. Dadri or the senior most officer.

Civil revision is allowed.

(KULDIP SINGH)
JUDGE

09.02.2018

Divyanshi

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No