

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.4557 of 2018(O&M)
Date of Decision: 10.09.2018

Mangalijeet Singh

.....Petitioner

Versus

UHBVN and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Nisha Malik, Advocate and
Mr. Ithlesh, Advocate
for the petitioners.

Mr. S.K. Mahajan ,Advocate
for the respondents.

RAJ MOHAN SINGH, J.

[1]. Petitioner has assailed the order dated 16.04.2018 passed by Civil Judge (Senior Division), Kaithal, whereby the petitioner was directed to pay 50% of the penalty/demanded amount and entire electricity charges along with Rs.10,000/- (compounding charges) on or before the specified date for restoration of electricity connection. Appeal filed against the order dated 16.04.2018 was also dismissed.

[2]. Plaintiff filed a suit for declaration and permanent injunction against the defendants on the ground that the electric

domestic connection is installed in the house of the plaintiff in the village and the plaintiff has been paying the electricity bills. In July 2017, the defendants issued bill dated 08.07.2017 in a sum of Rs.5476/- to the plaintiff and the plaintiff could not deposit the same due to unavoidable circumstances. Thereafter, he received memo dated 27.07.2017 of order of assessment by licensee in respect of theft under Section 135 of the Electricity Act in a sum of Rs.42295/-. An amount of Rs.10,000/- was assessed towards compounding fee, thereby making total amount to the tune of Rs.55,295/-. The allegations were that on 14.07.2017, the premises of the plaintiff was checked by the checking party and the plaintiff was found indulging in commission of theft of electricity. The case was considered under Section 135 of the Electricity Act. In addition to the aforesaid, the plaintiff also received bill dated 12.09.2017 in a sum of Rs.2,77,902/- in which an amount of Rs.2,27,131/- was shown as arrears. An amount of Rs.5476/- was shown as other expenses and Rs.42,295/- towards average basis.

[3]. Order dated 16.04.2018 was passed by the trial Court under Order 39 Rules 1 and 2 CPC, thereby directing the petitioner to deposit 50% of the amount of penalty and entire electricity consumption charges subject to final adjudication of the case. Respondents were restrained from recovering the

whole of charges/penalty amount till the final adjudication of the suit subject to pre condition of the plaintiff to deposit 50% of the amount of penalty and entire electricity charges along with Rs.10,000/- as compounding fee on or before 21.07.2018. Subject to the aforesaid, restoration of the electricity would be made. The said order was upheld by the Lower Appellate Court vide order dated 29.05.2018.

[4]. I have considered the arguments made by learned counsel for the parties.

[5]. Restoration of electricity supply is the basic need. The suit of the plaintiff will be decided on merits with reference to the evidence led by the parties.

[6]. At this stage, directing the plaintiff to deposit 50% of the amount in question would be the harsh order. I am of the view that it will be just, fair and equitable that the plaintiff/petitioner is directed to deposit an amount of Rs.50,000/- towards penalty and compounding fee. No serious prejudice will be caused to the interest of the respondents as in the event of finding the case of the plaintiff to be meritless, necessary consequences can be made at a later stage. Plaintiff shall keep on making payment towards electricity bills in future without any fail. An amount of Rs.50,000/- shall be paid towards penalty and compounding fee subject to final adjudication of the suit. This

amount is being ordered for restoration of electricity. Plaintiff shall pay electricity bills upto date as demanded by the respondents without any fail. The aforesaid arrangement is subject to the final adjudication of the suit. Therefore, pre condition of depositing of 50% of the amount of penalty is modified to the extent of payment of Rs.50,000/- by the plaintiff subject to final adjudication of the suit. This revision petition is disposed of accordingly.

September 10, 2018

Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No