

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

CWP No.8020 of 2018
Date of Decision: 02.04.2018

Guru Nanak Engineering Works, Jind Road, Near Railway Fatak, Kaithal,
Tehsil and District Kaithal

. Petitioner

Vs.

Uttar Haryana Bijli Vitran Nigam Limited and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Vijay Lath, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner is a proprietorship firm. It has filed a suit for seeking declaration to the effect that it has a right to use the electricity connection already provided in the premises by the licensee, for permanent injunction to restrain the respondents therein from disconnecting the electricity connection bearing A/c No.5638100000 illegally and unlawfully and further for mandatory injunction directing defendants No.1 to 4 therein to transfer the electricity connection in its name. The suit was contested by the defendants by filing short written statement. During the proceedings, defendant No.4 filed an application in the suit seeking a direction to the electricity department to install a new electricity connection in the demised premises. The said application was contested by filing a reply and ultimately the same was disposed of 12.9.2016 observing that the petitioner

is not the owner of the property in dispute, therefore, it cannot be considered to be a consumer for the purpose of using electricity connection. The said order dated 12.9.2016 was challenged by the petitioner by way of CR No.8125 of 2016 which was withdrawn by it because an observation was made by this Court that the impugned order was passed in terms of Order 39 Rule 1 & 2 and therefore, the said order was appealable. On 19.01.2018 the petitioner withdraw the Misc appeal filed before the appellate court in order to file a revision before the High Court as the appeal is not maintainable. It is pertinent to mention that the petitioner had also filed an application for temporary electricity connection which was declined on 22.02.2017. In the said application, the appellate authority has passed the following order: -

“Considering the fact that the electricity is the basis necessity of life as also the fact that plaintiff/appellant is an old person of 72 years of age, it is directed that till next date of case, if he so desire appellant/plaintiff can move an application for release of temporary electrical connection to the authorities concerned, who are directed to dispose of/decide the application within three working days. Meanwhile, trial Court record be requisitioned for the date fixed. Arguments shall be also heard on the date fixed.”

It is submitted that the petitioner had deposited the requisite charges on 7.3.2017 and before any order could have been passed by the electricity department, it withdrew the miscellaneous appeal on 19.1.2018 by suffering a statement that the miscellaneous appeal was not maintainable as the impugned order is revisable.

Be that as it may, the petitioner can choose one remedy for the purpose of redressal of its grievance for which it has already preferred a suit which is still pending.

In view thereof, once the ordinary jurisdiction of the Civil Court has been invoked by the petitioner by filing a suit which is still pending in which the same prayer has been made as has been made in the present petition, the extraordinary jurisdiction of this Court, under Article 226 of the Constitution of India cannot be invoked. Hence, the present petition is hereby dismissed.

02.04.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*