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

CR No. 536 of 2019

Date of Decision: 05.02.2019

Jarnail Singh

-Petitioner

Vs

Laxami Energy and Foods Limited and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Lajpat Sharma, Advocate,
for the petitioner.

Mr. Raghujeet S. Madan, Advocate, and
Mr. Irshaan S. Kakar, Advocate,
for respondent No.5/caveator.

Mr. Vivek Sethi, Advocate,
for respondent No.6.

RAJ MOHAN SINGH, J. (ORAL)

This revision petition has been preferred by the petitioner against the order dated 11.12.2018 passed by Additional Civil Judge (Senior Division), Khamanon, District Fatehgarh Sahib vide which application under Order 39 Rules 1 and 2 CPC was dismissed and the application filed by defendant No.5 under Order 39 Rule 4 CPC was allowed.

Petitioner has also assailed the order dated 16.01.2019 passed by Additional District Judge, Fatehgarh Sahib vide which appeal preferred by the petitioner against the

order dated 11.12.2018 was also dismissed.

Perusal of the record would show that plaintiff filed a suit for permanent injunction restraining the defendants from entering into the suit land and from erecting electricity lines in the suit land as fully mentioned in the head note of the plaint.

An application was filed by defendant No.5 under Order 39 Rule 4 CPC seeking discharge of *exparte ad-interim* injunction order dated 06.09.2018.

Plaintiff asserted that the suit property was never acquired under the provisions of Land Acquisition Act by any competent authority nor any compensation was ever assessed or paid.

Defendant No.1 is a Company.

Earlier a suit was filed by Major Singh against the defendant- Company wherein *ad-interim* injunction was granted by the trial Court on 06.07.2007. The suit was ultimately got dismissed as withdrawn on 16.07.2007. Newly added defendants No.5 and 6 want to erect electricity lines through the land of the plaintiff in connivance with defendants No.1 to 4.

The suit was contested tooth and nail on all grounds.

Defendants contested that injunction cannot be granted where compensation in money can be assessed under the relevant provisions of law.

Electricity Act empowers PSPCL to erect wires, install poles for transmission and distribution of electricity. Defendants are acting in public interest and jurisdiction of civil Court is barred under the Indian Electricity Act.

Defendants No.5 and 6 are erecting poles/towers for laying electricity wires in accordance with sanctioned sketch and the project is in larger interest of public. Widening of road from Kharar to Ludhiana is in progress.

Defendants submitted that proper remedy of the plaintiff is to challenge the amount of compensation and raise all the pleas before the District Judge u/s 16(3) of the Indian Telegraph Act. Shifting of 66 KV electricity line is being carried out in the larger interest of the Society as parts of 4/6 laning of Kharar-Ludhiana Section of NH-95 (New NH-5) from KM 10.185 to KM 86.199 Samrala Chowk is in progress. The project has time bound configuration as the same has to culminate on 11.09.2019.

Existing 66 KV electricity line at Khamanon (RD 40+600) is required to be raised in the light of widening of NH-95 and owing to construction of elevated road corridor. Due to four laning of NH-95, vertical clearance between final road level and lowest conductor of existing electricity line would become inadequate as per Indian Electricity Rules and the erection of

new tower and shifting of electricity lines would be essential so as to comply with the instructions given in Indian Standards (IS 5613). National Highway Authority of India has been entrusted with the work of maintenance, management and operation of National Highways for 4/6 laning of Kharar-Ludhiana Section of NH-95. Contract has been awarded to Contractor with specified time bound programme.

As per Article 11.2 of the Concession Agreement, Contractor is under obligation to undertake shifting of obstructing utilities including electric lines with due assistance of the petitioner and others. Defendant No.5 has submitted processing and survey charges for shifting of electric lines with defendant No.2 vide letter dated 03.01.2018. Necessary survey has also been carried out and proposal for shifting electricity line has also been finalized. Detailed sanctioned estimates for shifting of electricity lines has been executed and the entire work is under supervision of defendant No.2. Entire costs of shifting would be borne by the National Highway Authority of India and compensation has to be paid for the land under the tower or right of way corridor.

Notifications dated 02.08.2018 and 04.08.2018 have also been published.

Only objection of the petitioner is that the aforesaid

notifications do not show his land in terms of Khasra numbers. Fact remains that no objection was filed by the plaintiff even on that premise. Project of highway cannot commence until the shifting of electricity lines are removed. Delay may cause huge loss to public exchequer. When private interest of an individual is pitted against public interest at large, public interest should be preferred.

Petitioner has the remedy to seek compensation in accordance with law and petitioner can approach the competent authority under the rules.

Discretion exercised by the Court in terms of Order 39 Rules 1 and 2 CPC cannot be interfered with in the present case.

This revision petition is found to be totally devoid of merits and the same is accordingly, dismissed.

05.02.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No