

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

C.R. No.6669 of 2017 (O&M)
Date of Decision.09.04.2019

Ashraf Khan

...Petitioner

Vs

S.D.O (OP) Dakshini Haryana Bijli Vitran Nigam

...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Mohammad Arshad, Advocate
for the petitioner.

Mr. Saurabh Mago, Advocate
for the respondent.

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AMIT RAWAL J. (ORAL)

The present revision petition is directed against the
impugned order whereby the trial Court on 05.08.2017 while staying
disconnection of the electricity connection passed following order:-

“ Present: Sh. Ayyub Khan, counsel for plaintiff.

Sh. Dharmender Kumar, counsel for defendant.

*In pursuance of notice memo of appearance on
behalf of defendant has been filed. Adjournment sought.
Heard. Now to come up on 29.8.2017 for filing written
statement on behalf of defendant as well as power of
attorney.*

*At this stage learned counsel for plaintiff has
submitted that defendant is bent upon to disconnect the
electricity connection of the plaintiff under the garb of
notices. The court is of the finding that the legality of
the notices issued to plaintiff shall be decided after
leading evidence. Therefore, it is hereby ordered that if
the plaintiff shall pay full compounding fees and 30% of*

the assessment amount then the defendant shall not disconnect the electricity connection of plaintiff. Defendant are also directed to install new meter in the premises of plaintiff with immediate effect.

Sd/-

*Akshay Chaudhary
CJ (JD) F.P. Jhirka
UID-HR-0384*

Date:5-8-2017”

This Court on 27.09.2017 while issuing notice of motion passed following order:-

“Learned counsel for the petitioner contends that in case of burnt meter, the plaintiff was issued bill for consumption of energy on the basis of earlier consumption. About three days prior to checking report dated 24.07.2017, a bill in a sum of Rs.31,933/- was deposited by the petitioner on 21.07.2017. In the impugned order itself, the trial Court has directed the defendant to install new meter in the premises of the plaintiff.

In view of above, learned counsel submits that once the petitioner is regularly depositing the bill amount on the basis of previous readings of the meter, the imposition of compounding fee along with 30% of the assessment amount is wholly unjustified.

Notice of motion for 06.12.2017.

Till the next date of hearing, dis-connection of the petitioner shall remain stayed.”

Learned counsel for the petitioner submitted that entire pith and substance of the suit was declaration with consequential relief of permanent injunction. The Court should not have ordered for payment of compounding fee as the plaintiff has already deposited 30% of the amount and is willing to pay outstanding amount, subject

to the decision after parties led evidence.

Per contra, learned counsel for the respondent supported the order under challenge and the same does not call for any interference.

I have heard learned counsel for the parties, appraised the paper book and of the view that the Court below should not have imposed the condition of deposit of compounding fee as it is yet to be ascertained whether plaintiff is liable to pay or not but the condition of payment of 30% of the assessed amount cannot be said to be incorrect, particularly, when there is direction issued to install the new meter. The order impugned shall only be confined to payment of 30% of the assessed amount and the same is directed to be deposited within two weeks from the date of receipt of certified copy of this order. The interim order shall continue, however, in case of non-payment of amount so directed, the stay granted shall stand vacated.

The revision petition is disposed of in the above terms.

(AMIT RAWAL)
JUDGE

April 09, 2019

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No