

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

CR No.5178 of 2019

Date of Decision:28.08.2019

GHISA RAM

...Petitioner

Versus

**MANAGING DIRECTOR, DAKSHIN HARYANA BIJLI VITRAN
NIGAM LTD. AND OTHERS**

..Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Sanjay Mittal, Advocate
for the petitioner.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 31.05.2019, passed by the Civil Judge (Junior Division), Narnaul (for short-the Trial Court) through which an application filed by the petitioner seeking therein the appointment of a Local Commissioner has been dismissed.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition, are that the petitioner, along with respondents No.14 to 17, filed a suit seeking therein to injunct respondents No.1 to 4 from transferring an electricity transformer installed on one Raja Ram's tubewell. According to the plaintiffs, respondents No.1 to 4 were in collusion with the other private respondents and intended to transfer the aforesaid transformer only to benefit them. It was further submitted that the

private respondents were having another electricity line through which they were being supplied electricity and therefore, there was no need for transferring of the aforesaid transformer from its existing position.

On being put to notice, respondents No.1 to 4 as also the private respondents put in appearance before the Trial Court and contested the petitioner's claim. Respondents No.1 to 4 *inter alia* contended that the transformer in question had been installed to provide electricity to the tubewell of one Bala Ram son of Ganesha and not for distribution of electricity to residential houses. Since the said transformer had become old and that the electricity connection of the aforesaid tubewell had been permanently disconnected, the transformer, on an application filed by Bala Ram, was ordered to be shifted. The allegations of their collusion with the private respondents were vehemently denied. It was further submitted that the petitioner and the other plaintiffs had no concern with the transformer in question as also that the transfer of the transformer was being done as per rules of the Dakshin Haryana Bijli Vitran Nigam Limited (for short-the Nigam).

During the pendency of his suit, an application was preferred by the petitioner under Order 26 Rule 9 CPC seeking therein the appointment of a Local Commissioner to inspect the site in question and submit a fact-finding report as according to the petitioner the same was necessary for the just decision of the suit. The petitioner's application was dismissed by the Trial Court through the order which is under challenge in the present proceedings.

Learned counsel for the petitioner has been heard.

The petitioner, along with respondents No.14 to 17 filed a suit seeking therein to injunct respondents No.1 to 4 from transferring a transformer which had been installed at one Raja Ram's tubewell. According to the petitioner and the other plaintiffs, such transfer by respondents No.1 to 4 was in collusion with the private respondents to benefit them and that if the transformer in question would be transferred, the same would effect the supply of electricity to them.

On the other hand, the case set up by the official respondents was that the transformer in question had been installed to provide electricity to the tubewell of one Bala Ram son of Ganesha and not for distribution of electricity to the residential houses. Since the existing transformer had become old and that the electricity connection to Bala Ram's tubewell had been permanently disconnected, as per the rules of the Nigam, the same was being shifted to a place where it could be put to more effective use.

During the pendency of his suit, an application was preferred by the petitioner under Order 26 Rule 9 CPC seeking therein the appointment of a Local Commissioner to inspect the site in question and submit a fact-finding report as according to the petitioner the same was necessary for the just decision of the suit.

After considering the afore-referred conflicting stands taken by the parties, the Trial Court dismissed the application filed by the petitioner for appointment of a Local Commissioner for the reason that respondents No.1 to 4 being experts were in the best position to decide as to where the transformer in question would be more useful. The plea raised by the petitioner that the transfer of the transformer in question would result in loss

of voltage was also not accepted by the Trial Court as respondents No.1 to 4 were considered in a better position to deal with the same.

After going through the above reasons given in the impugned order, this Court concurs with the same and further affirms the findings returned by the Trial Court that in the facts of the present case, appointment of a Local Commissioner would not serve any purpose.

Dismissed.

August 28, 2019

(DEEPAK SIBAL)
JUDGE

Jyoti-IT Whether speaking/reasoned Yes/No Whether Reportable Yes/No