

**Civil Revision No.14365 of 2018 (O&M)**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Civil Revision No.14365 of 2018  
Date of Decision: April 04, 2019

Mani Ram Yadav

...Petitioner

Versus

M/s Conscient Infrastructure (P) Ltd. & another

...Respondents

**CORAM: HON'BLE MR.JUSTICE AMIT RAWAL**

Present: Mr. Sham Lal Bhalla, Advocate,  
for the petitioner.

Ms. Namitha Mathews, Advocate &  
Ms. Poorva Pant, Advocate,  
for the respondents.

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**AMIT RAWAL, J. (Oral)**

This Court, vide order dated 21.12.2018, had issued notice of motion in this case. In pursuance to the notice, Mr. Chirag Wadhwa Advocate had put in appearance on behalf of the respondents and the matter was posted for consideration of the revision petition today.

Mr. Sham Lal Bhalla, learned counsel for the petitioner-plaintiff has shown two receipts of 08.10.2018 and 22.12.2018 for ₹3,40,227/- and ₹ 1,44,407/- towards payment of maintenance charges. It is being submitted that the Diesel Generator (DG) charges as per the interim order dated 21.12.2018 had already been paid.

Ms. Namitha Mathews, learned counsel for the respondents submits that the disconnection was on account of the non-payment of the DG charges and not electricity and also on account of the non-payment of

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maintenance charges, which power was drawn from Clause No.6.1 of the Maintenance Agreement dated 19.02.2016 (Annexure P-3). This fact was disputed by Mr. Bhalla, who says that the DG charges had already been paid. Be that as it may, the present revision has arisen out of the decision, whereby application for interim protection preferred by the plaintiff in a suit claiming following relief, has been dismissed:-

*“(i) That the defendants No 1 & 2 may kindly be restrained by a decree of permanent injunction from disconnecting the Diesel Generator power backup supply or the main electricity supply of the plaintiff residing in Apartment 2002, Tower C and*

*(ii) In case they succeed in disconnecting it as described above, then to direct the deft no 1 and deft no 2 by a decree of mandatory injunction to restore it.*

*(iii) To pass a decree of declaration to the effect that the premises in suit and the Heritage One Condominium are governed by the Haryana Apartment Ownership Act 1983 and that the plaintiff and the other residents have a right to administer and run the maintenance of common areas as well as other facilities themselves through the elected office bearers of the Association of Apartment Owners of heritage one; that it may also be declared that the deft. no.1 and deft no.2 have no authority to run the maintenance of the complex under the provisions of the Act.*

*(iv) That the honourable court may kindly direct an audit to be carried by an independent agency under the supervision of deft no 4 regarding the entire maintenance accounts and moneys collected from the residents by deft no 1 and deft 2.*

*(iv) That the deft no.1 and deft no 2 may kindly be directed by a decree of mandatory injunction to not interfere in and to cooperate with the residents in the holding of open and free elections to elect the office bearers of the association of all the residents and not to prevent any resident from voting; that*

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*thereafter the deft no. 1 and deft no 2 may be directed by a decree of mandatory injunction to hand over all the amounts collected towards maintenance from the residents and towards other incidental expense including IFMS amount after an audit of the accounts and money has been ordered to be conducted by an independent body under the supervision of deft no 4 of all money collected and lying in bank accounts etc and to order them to hand over all this money to the association of apartment owners and to vacate the heritage one condominium.*

*(vi) That it may kindly be declared that the plaintiff has a right under the policy to obtain prepaid metering rebate of 5% which has not been made available by deft no 1 and deft no 2.*

*(vii) That deft no 3 may kindly be restrained by a decree of permanent injunction from creating any bye-laws for governing the condominium as it is not a representative body.*

*(viii) Any other relief to which the plaintiff may be found entitled to may also be granted to him and against the defendants.”*

I have heard the learned counsel for the parties and perused the paper book.

The interim relief sought, in my view, would tantamount to decree of the suit without any trial. Mr. Bhalla submits that it is without prejudice to the rights of the plaintiff. His client would continue to pay regular maintenance and recurring electricity, water and DG charges as demanded by the respondents from time to time with the condition that the connection which has already been restored may not be disconnected. Learned counsel for the respondents submits that in case such an undertaking is furnished, there would be no occasion for disconnection, but in case of deviation, the necessary consequences derived from the terms and conditions of the maintenance agreement would follow.

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In view of the aforementioned undertaking and the arguments of the learned counsel for the parties, I dispose of the present revision petition with a direction to the plaintiff to pay the monthly maintenance charges and recurring electricity, water and DG charges without prejudice to the rights of the plaintiff. However, in case of any default, it will not prevent the respondent-defendants to take action as per the terms and conditions of the maintenance agreement.

It is made clear that the aforementioned undertaking may not be construed as an expression of opinion on the merits of the pending suit.

**April 04, 2019**  
**ramesh**

**( AMIT RAWAL )**  
**JUDGE**

**Whether speaking/reasoned**  
**Whether Reportable:**

**Yes/No**  
**Yes/No**