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

1)

CR-1241-2021

Date of decision: 17.09.2021

Harmel Singh

.....Petitioner

versus

Sher Singh and others

.....Respondents

2)

CR-1217-2021

Jalandhar Singh and others

.....Petitioner

versus

Sher Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sukhvir Singh Sahu, Advocate
for the petitioner.

Mr. Lakhwinder Dandiwal, Advocate
for respondent No.1.

Mr. Rajesh Gaur, Advocate
for respondents No.2 and 3.

FATEH DEEP SINGH, J.

Due to outbreak of pandemic COVID-19, the instant case
is being taken up for hearing through video conferencing.

The above two civil revision petitions under Article 227 of the Constitution of India though are against two different orders dated 25.05.2021 (Annexure P-1 in CR-1241-2021) and 15.06.2021 (Annexure P-1 in CR-1217-2021), both passed by the Court of learned Additional Civil Judge (Senior Division), Ratia, but on account of consanguinity, needs to be disposed off together by this common order.

Heard counsel of both the parties and perused the records.

Admittedly, Harmel Singh-petitioner in civil revision bearing No. CR No.1241 of 2021, who happened to be the plaintiff before the lower Court and Sher Singh, in civil revision bearing No.CR No.1217 of 2021, then plaintiff, now respondent No.1, are all siblings, being sons of Major Singh s/o Balu Singh. Sher Singh had filed a suit for mandatory injunction seeking directions against Dakshin Haryana Bijli Vitran Nigam (DHBVN) in short the respondent, then defendant (though, have been improperly sued by changing the very title of the suit) for allowing him to shift his electric connection No.LL51-0039, in respect of tubewell to his land bearing Khasra No.219/1 from Khasra No.214/23. In the other suit, Harmel Singh-plaintiff had sought a decree for permanent injunction restraining defendant-Sher Singh, now respondent No.1 and others including DHBVN from installing/shifting tubewell in respect of electric connection No.LL51-0032 situated in Khasra No.219/1 from

Khasra No.214/23 and restraining the DHBVN from shifting the said tubewell in a forcible and illegal manner.

From arguments of the two sides and the pleadings, the dispute between the siblings is over the installation and working of the two tubewell connections, which are installed in their common agricultural land, which has not been apparently partitioned between themselves. It is not disputed that shifting of electricity connections, in respect of tubewell connections are governed by instructions of DHBVN and as per sales manual, Section II Clause (2) which is reproduced as below to lay emphasis:-

“2. Shifting of the tubewell connections on account of salinity of water, failure of bore or for any other reason can be allowed anywhere in the jurisdiction of DHBVN subject to the following conditions:-

i) The ground water cell of Irrigation Department shall certify the salinity/non-suitability of water in respect of the tubewell to be shifted in case the same has been sought on the grounds of salinity of water. The suitability of water in respect of new site where this tubewell is required to be shifted could also be certified by the Ground Water Cell.

ii) Shifting would also be allowed in case of failure of bore of the tubewell or any other reason to which the shifting has been requested.

iii) The shifting would be permitted in case of both the connected as well as disconnected tubewells subject to the conditions mentioned in

para i) & ii) above.

iv) The land which may be situated anywhere in the DHBVN jurisdiction, should be in the same name in which the original tubewell is situated. The shifting of tubewell will be allowed without any change in name.

v) The consumer shall not be a defaulter on account of payment of any electricity bill.

which clearly illustrates conditions under which DHBVN would have the jurisdiction to shift the tubewell connections of the consumer and it is emphatically made clear therein that upon Ground Water Cell of Irrigation Department certification salinity/non-suitability of water in respect of the tubewell to be shifted such an order can be made by DHBVN.

To the specific query of the Court, counsel for the two sides submit that there is neither any application moved by any of the consumers nor any sanction accorded by DHBVN and, thus, apparently, there is non-compliance of the statutory provisions of the sales manual that governs the DHBVN. The Court below in order dated 25.05.2021 has lost sight of this fact and refuses to pass an order of *ad interim* injunction in favour of plaintiff-Harmel Singh and the Court of the learned Additional Civil Judge (Senior Division), Ratia, in order dated 15.06.2021, in blatant violation to the provisions of the sales manual detailed above, had directed the DHBVN to shift the tubewell and electricity connection of the then plaintiff-

Sher Singh.

In light of what has been detailed and discussed above, the Courts are not supposed to extend their jurisdiction by legislating and going contrary to the provisions of the sales manual which has statutory ramifications, which renders the impugned orders to be flagrant violation of law.

In light of the foregoing discussions, both the orders are hereby set aside and the matters are remanded back to the Courts below to re-hear the matter and disposed off the same in light of the provisions contained in the sales manual detailed above.

The parties, through their counsel, are directed to appear before the Trial Court on 29.10.2021. It would not be out of place to direct the learned District Judge to ensure that both these matters which have bearing on each other are assigned to one and the same Court so as to prevent expression of divergent opinions by the Courts.

Both the petitions stand disposed off accordingly.

17.09.2021

Neha

**(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No