

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

CR-1679-2021 (O&M)

Date of decision: 23.08.2021

Nand Kishore Sood

...Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. S.S. Brar, Advocate for the petitioner.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

Briefly stated facts of the case are that plaintiff Nand Kishore Sood had brought a suit for permanent injunction against defendants Uttar Haryana Bijli Vitran Nigam Ltd. and others, contending that about five months earlier, a transformer on the two newly affixed poles in corner was installed by the defendants in front of house of plaintiff situated at Vashisht Nagar, Babyal Road, Ambala Cantt.; that was so done by the defendants without informing the plaintiff and he was not having any knowledge about the same; the plaintiff had requested the defendants to shift the transformer to some other place but to no effect; according to the plaintiff, the transformer is very dangerous for plaintiff and his family, since it is less than 04 inches from wall and can be touched from second floor of house of the

plaintiff; the transformer is yet to become functional, since it has not been connected with wires so far; there is a danger of transformer catching fire and house of the plaintiff getting damaged; the plaintiff had requested the defendants to shift the transformer in the same lane at the end, where another property of plaintiff is situated but to no effect; feeling aggrieved, the plaintiff had brought the suit in question, moving an application for grant of ad-interim injunction also.

On getting notice, the defendants appeared. The official and private defendants filed separate sets of replies.

In the written reply submitted on behalf of defendants No.1 and 2, they have contended that overhead wires have been fixed under provisions of Electricity Act, 2003 and overhead line in question is functioning in the area; such line is in larger interest of residents of the vicinity through which electricity is being supplied to various residents of the area; according to such defendants, the plaintiff had constructed the house without getting the site plan sanctioned; the poles on which the transformer rests are about 6 to 7 feet away from building line of the plaintiff; there is a drain abutting the building line and after that the poles were erected; initially an application was submitted by the plaintiff to Xen, Operation Division, Ambala Cantt., for not installing the transformer in question in front of his boundary wall; now the plaintiff has taken up a contradictory stand; according to such defendants, the plaintiff has no right to file the suit; they sought dismissal of the suit and application for ad-interim injunction.

Defendants No.3 to 9 also opposed the suit and application, contending that the plaintiff is running illegal business of sale of construction/building material and has encroached upon the land illegally by placing building material, sand, stones etc., creating nuisance and created pollution in the residential colony, which is dangerous for health of inhabitants; that electricity poles were already installed near corner transformer on each side from where the electricity is being supplied to various houses and that has not given rise to any problem till now; the transformer is being installed inside the pole and the supply is to be given with insulated wire; the plaintiff in order to cause hurdle to the development work has brought the present suit; the instant site is most convenient and suitable for installation of transformer; refuting the remaining allegations, such defendants prayed for dismissal of the suit.

After hearing counsel for the parties and perusing the record, the trial Court of Civil Judge (Jr. Divn.) Ambala, vide order dated 28.07.2021, had allowed the application, directing defendants No.1 and 2 not to give connection from electricity transformer holding that defendants No.1 and 2 are liable to install electricity transformer at the site which was initially proposed.

Feeling aggrieved by such order, the private defendants had brought an appeal before the Court of District Judge, Ambala; that appeal assigned to Addl. District Judge, Ambala was allowed, vide judgment dated 13.08.2021; resultantly, the impugned order was set

aside and stay application filed by plaintiff was dismissed.

The plaintiff felt aggrieved by said order passed by Addl. District Judge, Ambala and has filed the instant revision petition.

I have heard learned counsel for the petitioner besides going through the record.

Ad-interim injunction is a discretionary equitable relief, which is to be granted by the Court keeping in view the facts and circumstances of the case including the conduct of the parties and the plaintiff/applicant cannot claim this relief as a matter of right. The three essential ingredients which must exist to make out a case for grant of ad-interim injunction are (i) a good prima facie case; (ii) balance of convenience being in favour of plaintiff and (iii) the plaintiff suffering irreparable loss and injury. For making out a case for grant of ad-interim injunction, all the three ingredients must exist conjunctively and if one of the ingredients is missing, then such relief cannot be granted. In the present case, the trial Court of Civil Judge (Jr. Divn.) Ambala had allowed the application for ad-interim injunction but the order passed by him is not result of proper appraisal and appreciation of legal and factual position and he fell in error in coming to the conclusion that the plaintiff has been able to make out a case for grant of ad-interim injunction.

On the other hand, the order passed by learned Addl. District Judge, Ambala is quite detailed, well reasoned, based upon proper appraisal and appreciation of legal and factual position and

considering the law on the subject. The conclusion arrived at by learned Addl. District Judge, Ambala that plaintiff does not have any prima facie case the balance of convenience is not in his favour and no irreparable loss is going to be caused to him, if duly approved project by the Government department, which is responsible for supply/maintenance of electricity energy is executed. It was observed that when the competent authority has duly sanctioned the project of installation of transformer, the same should not at the first instance be stopped. It was further observed that even otherwise if overloading of the existing transformer is avoided, that would reduce the danger of any mis-happening. Learned Addl. District Judge, Ambala has taken into view the fact that the transformer in question was installed five months earlier to filing of the suit and as per case of the plaintiff even, the electricity wires were going to different houses from the poles on the corner point even before installation of transformer and that now better insulated wires are being used keeping in view the safety and congested area.

The order passed by learned Addl. District Judge, Ambala does not call for any interference while exercising revisional powers by this Court. Therefore, the revision petition stands dismissed accordingly.

23.08.2021

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**(H.S. MADAAN)
JUDGE**

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No