

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-960-2022 (O&M)
Date of decision: 21.07.2022

Punjab State Power Corporation Ltd. and another

... Petitioners

Vs.

Anshula Goyal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Jagdeep Singh Rana, Advocate
for the petitioners.

Mr. Akshay Bhan, Sr. Advocate with
Mr. Shantanu Bansal, Advocate
for respondent No.1.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for setting aside the order dated 02.11.2021 passed by the Civil Judge (Sr. Divn.), Amloh, vide which an application filed under Order 39 Rules 1 & 2 CPC read with Section 151 CPC by respondent No.1-plaintiff, was allowed as well as the order dated 18.02.2022 passed by the Additional District Judge, Fatehgarh Sahib, vide which appeal filed by the petitioners-defendants, challenging the order dated 02.11.2021, was dismissed.

Brief facts of the case, as noticed in the order passed by the lower appellate Court, read as under: -

“Briefly put, plaintiff/respondent No.1 filed suit for declaration

and mandatory injunction against appellants and proforma respondents No.2, 3 and others on the ground that plaintiff/respondent No.1 is consumer of appellants and on 19.04.2021 plaintiff/respondent No.1 purchased property measuring 20 kanals as detailed in para 3 of the plaint from Union Bank of India for consideration of Rs.2,80,25,000/- in e-auction conducted by the bank and the sale certificate dated 06.05.2021 was issued and thereafter bank executed registered sale deed vide wasika No.583 dated 07.06.2021 in the office of Joint Sub Registrar, Mandi Gobindgarh. This property was mortgaged with Union Bank of India and which sold the same under the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (Second) Act 2002 and thereafter plaintiff/respondent No.1 applied to appellants/corporation for the issuance and installation of 4 KW single phase electricity connection. The application of plaintiff/respondent No.1 was considered and verified and thereafter appellants–corporation issued demand notice dated 18.06.2021 requiring plaintiff/respondent to deposit meter security amounting to Rs.6530/-, which was deposited vide receipt dated 18.06.2021 and the connection was issued. Thereafter, plaintiff/respondent No.1 applied for extension of load up to 10 KW from the existing load of 4 KW. Said application of plaintiff/respondent No.1 was also considered and verified and demand notice of Rs.12,320/- was

issued, which on payment, was sanctioned. It is further averred that previously single phase 4 KW electric meter was removed by defendants/appellants and new 3 phase electric meter was installed and plaintiff/respondent No.1 consumed the electricity as per law and till date no consumption charges were due against plaintiff/respondent No.1, neither any case of theft or unauthorized use of electricity was reported but surprisingly on 18.8.2021 at 7 A.M electricity corporation persons illegally and forcibly disconnected the electricity connection of plaintiff/respondent No.1 without any notice and without giving any opportunity to plaintiff/respondent No.1 and deprived plaintiff/respondent No.1 from the basic amenity and thereafter plaintiff/respondent No.1 approached permanent Lok Adalat, but which returned the application of plaintiff/respondent No.1 for want of pecuniary jurisdiction and in the said application, defendants/appellants/corporation filed reply mentioning that an amount of Rs.1,68,49,203 is pending upon the property of plaintiff/respondent No.1 and civil suit for recovery for the alleged amount of Rs.74,26,231/- is pending before civil court at Amloh but appellants/corporation never raised any demand from the plaintiff/respondent No.1 and plaintiff/respondent No.1 is also not party in the said suit. It is further alleged that after disconnection, electricity corporation issued online bill amounting to Rs.14,990/- on 20.08.2021 and bill of Rs.370/- dated 31.08.2021, which

plaintiff/respondent No.1 had deposited, who never committed any default and thus, by way of application under Order 39 rules 1 and 2 read with Section 151 CPC, it is prayed by plaintiff/respondent No.1 that interim mandatory directions may be issued to electricity corporation to restore.

In reply to the application by the defendants/appellants, it is mentioned that plaintiff/respondent No.1 is not the consumer and the connection of plaintiff/respondent No.1 has already been disconnected on 20.08.2021 and actually one Harbhajan Singh JE, who is respondent No.2/defendant No.4 wrongly reported that nothing is due against plaintiff/respondent No.1 regarding property upon which plaintiff/respondent No.1 wanted to take electricity connection and on this report, electricity board inadvertently gave electricity connection to plaintiff/respondent No.1, who actually stepped into the shoes of previous consumer Shri Vishnu Steel and as per the terms and conditions agreed in A & A form by Vishnu Steel, the present plaintiff/respondent No.1 is also bound by the terms and conditions and as per the electricity rules and regulations, it is the responsibility of the plaintiff/respondent No.1 to get a special reading done by the distribution licensee at the time of change of occupancy or on the premises falling vacant and if the consumer vacate any premises to which electricity has been supplied by the distribution licensee without paying all charges due from him in respect of such supply

of for the provision of electricity meter, electric line or electrical plant, the distribution licensee may refuse to give him supply at any other premises until he pays the amount due and also may refuse to connect such premises either on request from existing consumer or on application for new connection by any person. It is further averred that Section 30.14 provides that once the final bill is raised under regulation 30.12, the distribution licensee shall not have the right to recover any other charges from the new occupant of the premises and as per Section 30.15 in case of transfer of property by sale etc. heir shall be liable to pay all the charges and thus, plaintiff/respondent No.1 has to verify the dues of the electricity board and he was bound to inquire or previous dues of Vishnu Steel, who is defaulter of the amount of approximately Rs.1,68,00,000/- and thus, the connection was rightly disconnected. Remaining averments of the case of plaintiff/respondent No.1 were denied and it is prayed that injunction application may be dismissed.”

Learned counsel for the petitioners has argued that respondent No.1-plaintiff purchased the property in auction proceedings and at that time, an amount of Rs.7600 lacs was due against erstwhile owner, which was not cleared and new connection in favour of respondent No.1-plaintiff was released by ignoring the fact that against the property, a huge amount is outstanding.

On a Court query, learned counsel for the petitioners could not dispute the fact that when the auction took place, there was no rider in the sale

certificate (Annexure P-1) that any amount in lieu of arrears of electricity bill is pending.

Learned senior counsel for respondent No.1 has referred to sale certificate (Annexure P-1) to submit that it is stated that the property is free from all encumbrances and there is no amount outstanding against the property. It is submitted that even the petitioner-Corporation has filed a suit for recovery of the amount, which is pending.

After hearing learned counsel for the parties, I find that only dispute is with regard to disconnection of electricity connection, which was released by the petitioner-Corporation itself and even in the sale certificate, no encumbrance was shown, when the property was put to auction and purchased by respondent No.1-plaintiff. Therefore, the Courts below rightly granted injunction in favour of the plaintiff-respondent No.1.

In view of the above, finding no illegality or infirmity in the impugned order, present petition is dismissed.

[ARVIND SINGH SANGWAN]
JUDGE

21.07.2022
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No