

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

106+219

**CWP-20060-2018(O&M)
Date of decision:23.08.2022**

VANITA JAIN

....Petitioner

Versus

UTTAR HARYANA BIJLI VITRAN NIGAM LIMITED AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Gopal Sharma, Advocate
for the petitioner.

Mr. Kapil Aggarwal, Advocate
for the respondents.

VINOD S. BHARDWAJ. J. (ORAL)

CM-12646-CWP-2022

The instant application has been filed under Section 151 of C.P.C for permission to place on record the undertaking of the applicant-petitioner as Annexure P-10 in pursuance to the order dated 03.08.2022.

For the reasons mentioned in the application, the same is allowed and the accompanying document i.e. Annexure P-10 is taken on record, subject to all just exceptions. Registry is directed to tag the same at an appropriate place.

CM-11508-CWP-2022

The instant application has been filed under Section 151 of C.P.C for permission to place on record the replication to the written

statement filed by the respondents and for permission to place on record Annexure P-9.

For the reasons mentioned in the application, the same is allowed. The replication to the written statement is taken on record. Accompanying document i.e. Annexure P-9 is taken on record, subject to all just exceptions. Registry is directed to tag the same at an appropriate place.

CWP-20060-2018

The instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents for the issuance of new electricity connection in the premises of the petitioner which was being delayed in violation of the mandate of the Electricity Act, 2003 and the Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 framed thereunder.

During the course of hearing held on 03.08.2022, the following order was passed:-

[1]. Petitioner has preferred this writ petition for the issuance of new electricity connection in the premises of the petitioner.

[2]. It appears from the record that an application was filed before the respondent-Nigam on 25.05.2017 for connection of 3 KW (connected load), for which necessary procedural compliance was also made by the petitioner.

[3]. The husband of the petitioner was tried for an offence under Section 135 read with Section 152 of the Indian Electricity Act, vide FIR No.475 dated 05.11.2008, Police Station Model Town, Panipat.

[4]. Additional Sessions Judge, Panipat vide judgment of conviction dated 11.11.2011, sentenced the husband of the petitioner to undergo rigorous imprisonment for a period of 3

years and to pay fine to the tune of Rs.4,65,999/- i.e. three times of the amount as assessed by the trial Court towards loss to the State Exchequer.

[5]. Feeling aggrieved against the judgment of conviction and order of sentence, the husband of the petitioner filed crl. appeal i.e. CRA-S No.2913-SB of 2011 in which stay of recovery of fine beyond Rs.1,55,333/- has been granted. An amount of Rs.1,55,333/- has been deposited by the husband of the petitioner. The electric connection remained in the name of original owner i.e. Ramesh Kumar. Since husband of the petitioner was using the premises, therefore, the penalty in question was imposed upon him.

[6]. The stand of the Department is that the imposition of penalty to the tune of Rs.1,55,333/- is on account of some typographical error. Infact an amount of Rs.15,33,331/- is the exact loss caused to the State Exchequer for which husband of the petitioner is liable to make good the loss in question.

[7]. Precisely for the aforesaid clarification, an application for clarification/modification of judgment/order passed by the trial Court was filed by the Department. The said application has been rejected by the Addl. Sessions Judge, Panipat vide order dated 03.12.2021 on the ground that the application in question does not fall within the parameters of Section 362 Cr.P.C. The mistake, if any, committed by the predecessor Court could only be rectified in appeal. Admittedly, the appeal is pending in the High Court.

[8]. Perusal of the record would also show that the petitioner was not privy to any such proceedings for which the amount in question has been levied towards penalty. Since the property in question has been purchased in the name of the petitioner and petitioner is the owner of the premises in question, therefore, the arrears of electricity bills as stood against the original owner are sought to be recovered from the petitioner through her husband, who has been convicted and sentenced by the trial Court.

[9]. For the release of new electric connection, the petitioner is willing to undertake to pay the entire dues subject to final decision of the pending appeal.

[10]. Let a specific undertaking be filed by the petitioner that she would pay the entire dues of the Department after decision of the pending appeal.

Pursuant to the aforesaid order, an undertaking has been filed by the petitioner on 17.08.2022 (Annexure P-10). The same reads as under:-

1. *That the husband of the deponent namely Virender Jain has filed Appeal No. CRA-S No. 2913-SB of 2011 title Virender Jain @ Kaku versus State of Haryana against the Judgment of Conviction dated 11.11.2011 passed by the Ld. Addl. Sessions Judge, Panipat before this Hon'ble Punjab and Haryana High Court. In this appeal, the Hon'ble High Court has passed order dated 23.11.2011 and stayed the recovery of fine beyond Rs.1,55,333/- (Rupees One Lakh Fifty Five Thousand Three Hundred Thirty Three).*

2. *That the deponent undertakes to pay the entire dues of the respondent i.e. Uttar Haryana Bijli Vitran Nigam pertaining to the premises of the deponent subject to the final decision of Appeal No. CRA-S No. 2913 SB of 2011 title Virender Jain @ Kaku versus State of Haryana and after the decision of the appeal.*

Learned counsel for the petitioner prays that in view of the undertaking so filed by the petitioner and subject to the petitioner depositing all other statutory charges and the running energy bills, the electricity connection be released/restored to the premises of the deponent.

Learned counsel for the respondents has no objection to the above.

In view of the consensus amongst the parties, the present petition is disposed of with a direction to respondent parties to

release/restore the electricity connection to the premises i.e. Godown/Shop No.15/1, Industrial Area, Panipat in favour of the petitioner, subject to the petitioner depositing the requisite expenses/charges as required for release of the connection and her agreeing to continually deposit the energy bills within a period of 30 days.

The present petition is thus disposed of in terms as aforesaid.

(VINOD S. BHARDWAJ)
JUDGE

23.08.2022
Amandeep

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No