

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

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**CR-2383-2021
Date of Order: 21.04.2022**

DAKSHIN HARYANA BIJLI NIGAM LTD AND ORS ..Petitioners

Versus

M/S KUMAR INFRA AND MINING PROJECT ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Samir Malik, Advocate
 and Mr. Sahil Sood, Advocate
 for the petitioners.

Mr. R.N. Lohan, Advocate
for respondent/caveator.

ANIL KSHETARPAL, J(Oral)

The defendant which is an Electricity Supply Company wholly owned by the Government assails the correctness of orders passed by the trial Court while granting relief of interim mandatory injunction directing it to restore the electricity connection while restraining it from recovering the penalty. As per the case of the petitioner, they have to recover Rs.46,70,048/- as penalty for theft of electricity and Rs.49,50,000/- towards compounding charges.

The learned counsel representing the parties are ad idem that both the Courts have not considered the three necessary ingredients for grant of injunction namely :-

1. Prima facie case in favour of the plaintiff;
2. Balance of convenience in favour of the plaintiff, and;
3. Irreparable loss and injury which cannot be compensated subsequently.

Before granting temporary injunction particularly of a mandatory nature the Court is required to fulfil all the three ingredients which are the *sine qua non* for passing such order i.e. the mandatory injunction.

Keeping in view the aforesaid facts, this Court is left with no choice but to set aside the orders while directing the trial Court to re-decide the matter.

The learned District Judge is directed to assign the case to some other judge.

Let the trial Court decide the application within a period of one month, positively, from today.

All the pending miscellaneous applications, if any, are also disposed of.

April 21st, 2022

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*