

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

113

CR-1298-2019 (O&M)
Date of decision: 16.12.2023

SARTAJ SINGH

..Petitioner

Versus

S.D.O. PUNJAB STATE ELECTRICITY
BOARD AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep Khunger, Advocate
for the petitioner.

Mr. Arav Gupta, Advocate
for respondent No.1 & 2.

Mr. Tarun Seth, Advocate
for Mr. Sumit Jain, Advocate
for respondent No.3.

ANIL KSHETARPAL, J(Oral)

1. This revision petition has been filed by the decree holder. In his execution petition, Punjab State Power Corporation Limited filed an objection petition, which has been allowed resulting in disposal of the execution petition as fully satisfied. The correctness of the aforesaid order is challenged in this revision petition.

2. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

3. The learned counsel representing the petitioner while drawing the attention of the Court to para 17 of the judgment passed by the trial Court on 29.11.2007, submits that the directions were given to remove all the wires passing over the decree holder's land and small residential house.

He submits that the First Appellate Court while modifying the decree passed

by the trial Court has also held that the respondent-Corporation shall be entitled to publish fresh scheme and therefore, the respondents are liable to remove all the over head electric wires, which are passing through the land and the residential houses of the petitioner. He also refers to page 62 (Annexure R-12) of the paperbook to contend that the revenue official has also reported that despite the orders of the Court to remove all the wires passing over head the land, two electricity lines carrying electric current of 11KV and 132 KV are still in existence and have not been removed yet. He also draws the attention of the court to various photographs produced to prove the fact of electricity lines still being in existence over head the land and residential house of the petitioner.

4. On the other hand, the learned counsel representing the respondents submits that the plaintiff while filing the suit had sought two reliefs; first to grant the decree of permanent injunction restraining the defendants from installing electricity poles and spreading cables over the electric poles over the land of the plaintiff without due course of law, whereas, the second was a decree for mandatory injunction to remove two electric poles, which had already been installed in the suit land. It is submitted that the trial Court while issuing decree for mandatory injunction had directed the removal of two electric poles, which have already been removed. It is submitted that this direction was only confined to the third electric line, which is passing over the plaintiff's land. It is submitted that two other over head electric lines, one carrying electric current of 132KV was installed in the year 1932, whereas, the second electric line carrying current of 11KV was laid in the year 1990. It is submitted that the direction

was only with respect to the third electric line. It is clarified that both the poles have already been removed for laying the third electric line.

5. This Court has considered the submissions and analyzed the arguments of the learned counsel representing the parties.

6. Para 17 of the judgment passed by the trial Court is extracted as under:-

“In view of my findings on issues above, the suit of the plaintiff is decreed with costs and defendants are restrained from installing electric poles and spreading cable over the electric poles from the land of the plaintiff illegally, forcibly and without due course of law and defendants are further directed to remove two electric poles which have already been installed in the suit land and to remove the entire wires passing over them and above the land mentioned in the head note of plaint. Decree sheet be prepared and file be consigned to the record room, Gurdaspur.”

7. It is evident that the trial Court in para 17 of the judgment has issued directions to remove two electric poles, which were already installed in the suit land. There were no directions as such to remove the electric poles, which are supporting the old electric supply lines. Though, the trial Court directed the removal of entire wires passing over the plaintiff's land, however, this has to be read in the context of the entire suit.

8. On perusal of para 14 of the judgment of the trial Court, it becomes evident that the utmost crucial dispute in the suit was only with regard to the third electric line, which was sought to be laid. Moreover, the First Appellate Court while modifying the decree passed by the trial Court also held that the respondent can install electric poles and lines only after publication of scheme in the local newspaper and in the official gazette while complying with the provisions of Section 28 of the Electricity

9. In view of the aforesaid facts, para 17 of the judgment of the trial Court is required to be read in the manner, which serves the public interest.

10. There is no specific direction by the Court to remove the electric poles and electricity wires of 132KV line and 11KV line. The aforesaid direction was not given to remove the installation of the poles and electricity wires which were in existence for more than 70 years. In fact, the 132KV line was in existence approximately 70 years before the suit was filed, whereas, the second electricity line carrying current of 11KV was in existence 11 years before the suit was filed.

11. Keeping in view the aforesaid facts, no ground to interfere is made out.

12. Dismissed accordingly.

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

December 16th, 2023

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*