

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CR-715-2021 (O &M)
Date of decision: 12.04.2023

SUB DIVISIONAL OFFICER (OP)-CUM-DESIGNATED OFFICER AND
ANOTHER ...Petitioners

VS

VIKRAMJEET ...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Baldev Raj Mahajan, Senior Advocate with
Mr. Arvind Seth, Advocate,
For the petitioners.

Mr. Sandeep Verma, Advocate,
For the respondent.

ARUN MONGA, J. (ORAL)

Petition herein, under Article 227 of Constitution of India, is for setting aside the impugned order dated 23.10.2020 (Annexure P-13) passed by learned Civil Judge (Jr. Division) Shahabad Markanda, whereby petitioner/defendants were directed to release the electricity connection of respondent/plaintiff during pendency of the suit and the order dated 11.01.2021 (Annexure P-15) passed by learned Additional District Judge, Kurukshetra vide which appeal filed by petitioners against the order dated 23.10.2020, was dismissed.

2. Learned counsel for petitioner/defendants submits that vide impugned order dated 23.10.2020 (Annexure P-1), learned Court below has exceeded its jurisdiction while directing petitioners to release a new electricity connection as per Nigam Sales Circular No.32 of 2017. The said relief has been granted to respondent/plaintiff beyond the pleadings of the plaint. It is nowhere pleaded in the plaint that plaintiff is entitled to get the electricity connection under Circular No.U-32 of 2017. He further submits that premises of respondent/plaintiff are located in a bounded walled colony, therefore it clearly

establishes that Nigam Circular No. U-15 of 2015 dated 08.06.2015 is applicable and respondent/plaintiff cannot be allowed to take electricity connection which is contrary to the statutory sales circulars issued by petitioner-Nigam.

3. On the other hand, learned counsel for respondent would submit that electricity is one of the basic necessities for human existence nowadays. Respondent had purchased the demised premises for valuable consideration and his case is prima facie covered under Nigam Circular No.U-32 of 2017. Impugned orders have been passed after due and correct appreciation of record.

4. I have heard learned counsel for parties and gone through the case file.

5. The order dated 11.01.2021 (Annexure P-15) passed by learned First Appellate Court assailed herein, is premised, *inter alia*, on the following reasoning:

“9. After perusal of the file, it comes out that it is not disputed fact that the respondent/plaintiff has purchased a plot referred to above by virtue of sale deed dated 03.10.2019 and subsequently constructed a house thereon and applied for electricity connection. However, the request of respondent/plaintiff was declined by the appellants/defendants with the reasons that on account of failure of respondent/plaintiff as well as private colonizer to comply with the directions reflected in sale circular No.U- 15/2015, according to which the developer/colonizer were required to submit the documents to the competent authority i.e. SE/OP concerned of the entire colony. However, the said compliance has not been made. Hence, the request was declined. Further, it comes out that it is neither the case of appellants/defendants and respondent/plaintiff that the respondent/plaintiff has not purchased the plot in unauthorized colony developed by the private colonizer whereas bare reading of sale circular U-15/2015 goes to reflect that it is regarding approval of electrification plan in the colonies/multistories buildings, group housing societies developed by private colonizer/SEZ and HUDA etc. More so, defence of the appellants/defendants that the private colonizer is selling the land in plot unauthorizedly. More so, another sale circular bearing No.U-32/2017 relied upon by learned counsel for the appellants/defendants itself goes to show that it provides the terms and conditions regarding the issuance of release of electricity connection even in unauthorized colonies and this sale circular bearing No.U/32/2017 super-seeded the sale circular bearing No. U29/2015. Thus, taking into account, the defence of the appellants/defendants itself, the terms and conditions of the sale circular bearing No.U-32-2017, this Court is of the considered view that a prima facie case is made out in favour of the

respondent/plaintiff, who would suffer irreparable loss and injury in case electricity connection, which is one of the basic necessities for human being is not released. Therefore, it is further held that the learned lower Court has committed no error of law while allowing the injunction application of the respondent/plaintiff, therefore, the findings recorded by the learned lower Court, which do not warrant any interference are hereby affirmed. Thus, finding no illegality and any error of law, the impugned order dated 23.10.2020 is hereby upheld.”

6. A perusal of above leaves no manner of doubt that there is no irregularity either in facts or in law, so as to exercise extraordinary revisional jurisdiction vested with this court.
7. There is no room for interference in the aforesaid valid reasons recorded by the trial Court, with which I am in agreement.
8. That apart, on a Court query, conceded position emerges that pursuant to the impugned order, electricity connection has already been installed at the premises in question and trial of the suit is already at an advanced stage. Therefore, in order to balance the equities, it is rather appropriate that the interim directions given by learned Appellate Court continue to subsist during pendency of the trial. Ordered accordingly.
9. No grounds are made out to interfere.
10. Dismissed.

(ARUN MONGA)
JUDGE

12.04.2023
Vandana

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No