

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

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**CWP-13194-2022 (O&M).
Date of Decision: 20.02.2023.**

Rukman Rani

...Petitioner

Versus

Punjab State Power Corporation Limited and others.

...Respondents

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

Present: Mr. Amar Jeet, Advocate, for
Mr. Vikram Kumar, Advocate, the petitioner.

Mr. Tushaar Madaan, Advocate, for respondents No.1 to 3.

Mr. Sourabh Bedi, Advocate, for respondent No.4.

VINOD S. BHARDWAJ. J (ORAL)

The instant writ petition has been filed seeking issuance of directions to the respondent Authorities to transfer the Motor Connection No.B-94 in the name of petitioner.

Briefly summarized, the facts of the present case are that Ramesh Lal, husband of the petitioner had acquired agricultural land through family partition on 01.05.2021. The petitioner along with his sons continues to be owner in possession of the above said land. The irrigation requirements of the joint land holding was being met through two motor connections originally in the name of Hansraj (brother-in-law of the petitioner). Out of the above said two connections, one connection already stood transferred in the name of Harbans while the second

connection against the motor connection No.B-94 is to be transferred in the name of the petitioner qua her land.

An application for the said meter transfer along with no objection from Hansraj and the prescribed fee had been submitted by the petitioner with the official respondents in the month of April 2022. However, despite submission of application and applicable charges, the transfer has not been undertaken.

Written statement on behalf of respondents No.1 to 3 has been filed through respondent No.3 – Assistant Executive Engineer, Sub Division Officer, PSPCL, Guru Har Sahai, District Ferozepur, wherein they admit the receipt of an application from the petitioner for seeking transfer of the electric motor connection. It is, however, submitted that one Des Raj had filed a civil suit which is pending before the Additional Civil Judge (Sr. Divn.) Guru Har Sahai and a status quo order had been passed on 14.10.2022. It is thus averred that on account of the said interim order of status quo the electric motor connection cannot be transferred in the name of petitioner.

Learned counsel for respondent No.4 – Hans Raj, however, submits at bar that he has no objection to the transfer of the above electric motor connection in the name of the petitioner and that no separate written statement is required to be filed.

Responding to the objection raised by the respondent qua the filing of the civil suit, learned counsel for the petitioner refers to the operative part of order dated 14.10.2022 (Annexure R-1) which reads thus:-

“ 7. After hearing the contentions raised by the learned counsel for both the parties and going through the case file, I am of the view that it was for the plaintiff to establish that the prima-facie case is made out in his favour. The plaintiff in order to establish the same had placed on record documents i.e. jamabandi for the year 2018-19 and khasra girdawari. On the other hand, the defendants in order to support their contentions has placed on record i.e. copy of receipt dated 18.04.2022 and copy of passbook. As per the documents placed on record the exclusive possession of the plaintiff over the suit property is established. The fact whether the plaintiff is intending to interfere in the use of the tube well connection is matter of evidence which is yet to be led on record. From the documents placed on record at this stage a prima-facie case is made out in favour of plaintiff and balance of convenience also lies in favour of the plaintiff and he will suffer irreparable loss if injunction is not granted in his favour. Accordingly, the defendants are restrained from interfering into the peaceful possession of the plaintiff over the suit land and further restraining the defendants from dispossessing the plaintiff from the suit land forcibly and illegally except in due course of law. However this order of mine shall not effect the persons who are not party to the present suit. This order of mine shall not effect the rights of the bank with regard to the recovery proceedings initiated by the bank with regard to the recovery of loan amount from the suit property before any competent authority. Further this order of mine shall not effect any partition proceedings or any other kind of proceedings if any initiated before any competent authority with regard to the suit land and will also not effect the rights of the defendants with regard to the electric motor if

any with regard to the usage or shifting of the same from the suit land. Thus the present application stands allowed.

However these observations of mine are only for the purpose of disposal of this application and shall have no effect on the merits of the present case.

*Pronounced in open Court (Neeraj Kumar Singla)
Dated 14.10.2022 Addl. Civil Judge (Senior Division),
Guruharsahai. (UID No. PB0354)”*

(Emphasis supplied)

He submits that the aforesaid interim order does not operate as a bar against the transfer of the electric motor connection as the said order itself specifically provides that it shall not affect the rights of the defendants to the electric motor connection, if any, and with regard to the usage or shifting of the same from the suit land. He submits that the objection thus raised by the respondent Department is mis-conceived and is not based on the correct reading of the interim order.

Learned counsel for the petitioner further contends that plaintiff Des Raj had challenged the above order dated 14.10.2022, feeling aggrieved of the exclusion of the rights to the electric motor connection and that even the said appeal preferred by the plaintiff had been dismissed.

Learned counsel for the respondents could not dispute the aforesaid order. He, however, submits that as the matter is pending before the Civil Court, hence action for transfer of Electric connection had not been taken.

I have heard the learned counsel for the respective parties and have gone through the documents appended along with the present petition.

The sole reason given by the respondents for not transferring the electric motor connection in the name of the petitioner is the interim order dated 14.10.2022 and the pending civil suit. However, a perusal of the interim order clearly shows that the same is without prejudice to the rights of the defendant with regard to the electric motor connection, if any, and its usage and shifting from the suit land. Hence, the objection against transfer of meter is mis-conceived and is not substantiated from a reading of the order. In the absence of any order of restraint to transfer the connection by the Civil Court, there was no impediment in allowing the shifting of the electric motor connection. To the contrary, the order in fact permits such transfer if otherwise permissible in law. The respondents nowhere suggest that there is any other limitation or restriction in law against transfer. The presumption thus is that but for the interim order of Civil Courts. The respondents had no other hindrance to transfer the motor connection.

The present petition is accordingly allowed without prejudice to any others order that may have been passed by a competent Court restraining the usage and shifting of the above said electric motor connection from the suit land.

The respondents-PSPCL shall take appropriate steps to transfer the electric motor connection and do the needful within a period of 06 weeks of receipt of certified copy of this order subject to the

petitioner complying with and fulfilling the requisite formalities as per the provisions of the Electricity Act, 2003 and the Regulations framed thereunder.

Since the main writ petition has been disposed of, all pending misc. applications shall stand disposed of accordingly.

February 20, 2023	(VINOD S. BHARDWAJ)
<i>raj arora</i>	JUDGE
Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No