

2023:PHHC:146053

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3515-2023 (O&M)

Date of Decision: November 16, 2023

Uttar Haryana Bijli Vittran Nigam Ltd. and others

...Petitioners

Versus

Ram Bhaj Singh and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.R.S.Longia, Advocate
for the petitioners.

Mr.N.K.Malhotra, Advocate
for respondent No.1/caveator

ARCHANA PURI, J.

During the course of arguments, it is submitted by learned counsel for respondent No.1 (who is plaintiff before the Court below) that the main suit, filed at his instance, has since been withdrawn and therefore, the revision petition, which is an offshoot of the suit, as such, has become infructuous. Copy of the order passed by learned Court below, with regard to the withdrawal of the suit, has been produced and the same is taken on record.

From the perusal of the order dated 21.07.2023 passed by learned Court below, it is evident that learned counsel for respondent No.1 (plaintiff before Court below) had stated in writing that the meter has been

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installed in his house and therefore, he does not want to proceed further with the present suit and withdraws the same and file may be consigned. In view of the statement, so got recorded, the suit was thereby, dismissed as withdrawn.

However, learned counsel for the petitioners submits that the even though, the suit had been withdrawn, the interim relief, so granted, vis-a-vis, installation of the electricity meter, also should come to an end.

The essential facts, as culled out from the paperbook are that initially, Ram Bhaj-respondent No.1 had filed a suit for declaration and mandatory injunction, thereby, asserting about having three brothers namely, Gugan Singh Hooda, Ram Mehar and Ramphal. All of them were residing in joint family. About 8-10 years ago, they had separated and but they were using same electricity connection No.113, which was in the name of Ramphal, his real brother. On account of the defendants (present petitioners) intend to shift the meter outside the premises of the consumer, his brother had filed a complaint before Consumer Commission and during the pendency of the consumer complaint, real brother of the plaintiff-respondent No.1 got his complaint, dismissed as withdrawn and he got the electricity meter shifted, outside the premises, in collusion with the defendants. Now, real brother of the plaintiff had refused to give electricity supply to the plaintiff-Ram Bhaj.

In this backdrop, respondent No.1-plaintiff had applied for taking the electricity connection by completing all the formalities, but however, defendants No.2 and 3, visited the premises of the plaintiff, for

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installation of the electricity connection, outside the premises i.e. in the street, on the pole. The plaintiff had pleaded that in case, the defendants install the electricity meter outside his premises, the defendants should install Real Time Display Unit, at his premises and he is ready to pay the expenses for the same and also to ask the defendants to install ISI Standard Box for containing meter outside the premises to the satisfaction of the plaintiff.

During the pendency of the suit, an application was filed for interim relief, thereby, making a prayer for issuance of direction to the defendants to install the electricity connection/meter, inside/indoor of the premises of the plaintiff, in case, the real time display meter is not installed.

On the basis of the said application, vide impugned order dated 22.03.2023, a direction was given by learned Addl. Chief Judicial Magistrate, thereby, asking UHBVNL to install the electricity meter inside the house of the consumer, without any further application in this regard. Further, it was observed that the meter shall be removed and installed outside the house, if UHBVNL is in a condition to provide real time display meter to the consumer. Also, it was made clear that real time display is not equivalent to sub-meter.

Feeling aggrieved by the aforesaid order, the defendants had filed appeal and with some modification, with regard to filing of the fresh application and not for installation of the meter, the appeal was dismissed. Further, feeling aggrieved by the order passed by the lower Appellate Court, the petitioners-defendants, had filed the present revision petition.

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During the pendency of the said revision petition, the suit was dismissed as withdrawn vide order dated 21.07.2023.

Keeping in view the factual situation, a prayer is now made by learned counsel for the petitioners that installation of the meter vide impugned order was an interim arrangement made and therefore, the same also goes with the withdrawal of the suit.

Undisputedly, the specific directions have been given for the installation of the meter inside the house of the consumer, which was an interim measure, solely, on the basis of an application, copy whereof is at page 26-27 of the paperbook. Perusal of the same reveals that installation of the electricity connection/meter was sought inside the premises of the plaintiff, by way of grant of ad-interim injunction. Meaning thereby, it was an interim arrangement so made.

Very true, as so pointed by learned counsel for the petitioners that an attempt is being made to retain benefit of interim order by avoiding final adjudication. Even though, learned counsel for respondent No.1 stated that the suit was withdrawn in the presence of learned counsel for the defendants (present petitioners), but however, that matters not much, as no objection was raised at that stage. But anyhow, the fact remains that the present revision petition was pending to challenge the impugned order. In the given circumstances, it is also pertinent to mention that respondent No.1-plaintiff has not assigned any reason for withdrawal of the suit. Seemingly, it appears that it was to retain the benefit of interim order by avoiding final adjudication. Even if it be so, on withdrawal of the suit, the

present revision petition has become infructuous and the same is accordingly dismissed.

But anyhow, since the controversy between the parties related to the installation of the meter, inside or outside, learned counsel for the petitioners submits that they have no objection, if the meter is installed outside the premises of respondent No.1, in consonance with the circular issued, which is Annexure P-1. However, as the revision petition has been dismissed, as such, the petitioner, has otherwise liberty to initiate further steps, for installation of the meter in question, as per the prevalent circular, in accordance with law.

November 16, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No