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

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Date of Decision:- 05.12.2023

Shushma Rani

...Petitioner

Vs.

Dakshin Haryana Bijli Vitran Nigam and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Ajay Kumar Gupta, Advocate for the petitioner.

Respondents No. 1 to 3 proceeded against *ex parte*.

AMARJOT BHATTI, J.

1. The petitioner – Shushma Rani has filed revision petition under Article 227 of the Constitution of India for setting aside impugned order dated 13.09.2023, Annexure P-1 passed by learned Additional District Judge, Fatehabad and another order dated 21.08.2023, Annexure P-2 passed by learned Civil Judge (Junior Division), Ratia vide which the request of the petitioner/plaintiff for *ad interim* injunction for the electricity connection in her name being occupant of the premises was declined.

2. The brief facts of the case are Shushma Rani filed suit for declaration to the effect that she is entitled for domestic supply electricity connection in her name under her occupation on the ground floor part of matrimonial home/shared household i.e. House No. 201, Ward No. 10, Ratia, as per Electricity Act, 2003 with the consequential relief of mandatory injunction directing the defendants to provide the fresh electricity connection in her name. In the said plaint, the

petitioner/plaintiff had filed application under Order 39 Rules 1 and 2 read with section 151 of C.P.C. seeking *ad interim* injunction. The learned counsel for the petitioner/plaintiff argued that the petitioner/plaintiff is residing in the matrimonial home since her marriage. She is having a minor daughter. She resides on the ground floor of the said house, which is in the name of her father-in-law Sanjiv Kumar, defendant No. 3. There was electricity connection No. 0826761000 in the name of Sanjiv Kumar. There was matrimonial dispute with her husband and in-laws family. The defendant No. 3 father-in-law did not pay the electricity bill amounting to Rs. 63,000/-, resultantly, the electricity connection was disconnected by defendants No. 1 and 2 on 21.06.2023. Now, the present petitioner/plaintiff is seeking separate electricity connection in her own name in the portion occupied by her where she is residing with her minor child. The defendants No. 1 and 2 have refused to release the electricity connection as they are demanding ownership proof and NOC from the registered owner of the house. The learned counsel for the petitioner has relied upon one citation in ***Criminal Appeal No. 810 of 2022 arising out of Special Leave Petition (Criminal) No. 8917 of 2019, decided on 13.05.2022***, titled “**Dilip (dead) through Lrs. versus Satish & Others**”, where while dealing with the provisions of Article 21 of Constitution of India, it was held that “*electricity is a basic amenity of which a person cannot be deprived. The electricity cannot be declined to a tenant on the ground of failure/refusal of landlord to issue no objection certificate.*” It was further held that “*the electricity supply authority is required to examine whether the applicant who applied for electricity connection is in occupation of the premises in dispute.*” The learned counsel for the petitioner/plaintiff prayed that till the final disposal of the suit, the

electricity department may be directed to release provisional electricity connection in favour of the petitioner/plaintiff and she undertakes to pay the electricity bill regularly. The learned Courts below have failed to consider these facts and the application seeking *ad interim* injunction for the release of electricity connection has been wrongly declined by passing order dated 21.08.2023, Annexure P-2 by learned Civil Judge (Junior Division), Ratia and the appeal preferred by her is also wrongly declined vide order dated 13.09.2023, Annexure P-1 passed by learned Additional District Judge, Fatehabad. It is prayed that the aforesaid orders may kindly be set aside and the electricity department may be directed to release provisional electricity connection in favour of the petitioner/plaintiff.

3. Notice was given to the defendants who did not appear and ultimately they were proceeded against *exparte*.

4. I have gone through the record available on the file. The factual position is not disputed. Admittedly, the house in which the petitioner/plaintiff is claiming to reside along with her minor daughter is in the name of her father-in-law namely Sanjiv Kumar, who is arrayed as defendant No. 3. It is further not disputed that there is matrimonial dispute going on with her husband and in-laws family. As per the version of petitioner/plaintiff, she is residing in a portion of the house on the ground floor being her matrimonial home. She also admitted that there was electricity connection in the house in the name of her father-in-law defendant No. 3 and the electricity connection was disconnected by defendants No. 1 and 2 on account of non-payment of electricity bill. Before the trial Court, the suit is contested by defendants No. 1 and 2 and as per the facts narrated in the impugned order dated 21.08.2023, it is

defendant No. 3 was disconnected vide order dated 21.06.2023 on account of non-payment of dues. The defendant No. 3 is also contesting the suit by filing his written statement where he claimed that he got the electricity connection disconnected on 29.09.2020 by paying an advance bill amounting to Rs. 9800/- and it was the petitioner/plaintiff who was illegally consuming the electricity and she did not pay the bill amounting to Rs. 72,291/-. It is further reiterated that plaintiff is neither owner nor in physical possession of the house as she is residing with her parents in Punjab.

I have considered the aforesaid facts pleaded by the parties before the trial Court. The electricity connection in the house in question was disconnected on account of non-payment of dues. Therefore, the question remains whether the electricity department can release fresh electricity connection in the same premises without clearance of previous dues or not. The other matter in controversy is whether the present petitioner/plaintiff is in actual physical possession of the said portion of the house or not. It is not disputed that she is having matrimonial dispute and some case is also going on in Punjab. The house in question is owned by her father-in-law i.e. defendant No. 3. The department will release the electricity connection as per their rules. Therefore, considering the aforesaid factual position, in my opinion, no *prima facie* case is made out in favour of the petitioner/plaintiff nor the balance of convenience lies in her favour. The aforesaid facts are to be determined on the basis of evidence to be led before the trial Court. The perusal of order dated 21.08.2023 passed by learned Civil Judge (Junior Division), Ratia, Annexure P-2 and judgment dated 13.09.2023 passed by learned

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aforesaid facts have been considered and duly appreciated by the Courts below. The authority in *Dilip (dead) through Lrs. (supra)* relied upon by the learned counsel for the petitioner/plaintiff is not applicable to the facts of the present case. Therefore, considering the aforesaid facts, I do not find any reason to interfere in the orders passed by the Courts below and the same are accordingly, upheld and the present civil revision preferred by the petitioner/plaintiff is accordingly, dismissed.

Pending application(s), if any, shall also stands disposed of.

05.12.2023

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:	Yes
Whether reportable:	Yes/No