

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

RSA No.4783 of 2018

Reserved on : 13.02.2024

Date of Decision: 20.02.2024

Tilak Raj & Another

....Appellants

VERSUS

Punjab State Power Corporation Ltd. & Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sukhvinder Singh Chatrath, Advocate for the appellants.

ALKA SARIN, J.

1. This regular second appeal is by the plaintiff-appellants challenging the judgements and decrees dated 02.02.2017 and 06.04.2018 of the Trial Court and the First Appellate Court, respectively, whereby their suit for declaration and mandatory injunction has been dismissed.

2. As per the plaintiff-appellants they are consumers of the defendant-respondents and had about 50 years back got their separate electric motor connections for their respective pieces of land sanctioned. The supply to the said motor connections was given from the Urban Industrial Feeder, Kapurthala for which the electricity lines had already been laid down over the land of the plaintiff-appellants and now the defendant-respondents were threatening and trying to change the supply from Urban Industrial Feeder to Rural Feeder which will cause a substantial loss to the plaintiff-appellants as a new 11KV supply line will again have to be laid over the land of the plaintiff-appellants which will further diminish the value and utility of the land and will also adversely affect the crops. The suit was

initially filed for grant of permanent injunction but during the pendency of the present suit the defendant-respondents disconnected the motor connections vide letter memo dated 21.05.2012. The suit was thereafter amended to one for grant of mandatory injunction. In their written statement the defendant-respondents raised preliminary objections and on merits stated that the plaintiff-appellants are only entitled to get energy from the Rural Feeder and that the defendant-respondents reserve the right to alter the supply regulation at any time as per Clause 50.1 of the Conditions of Supply. It was further submitted that as there was no bifurcation of feeders earlier, the electricity was supplied to the plaintiff-appellants from the Industrial Feeder and now the Chief Engineer North, PSPCL, Jalandhar vide memo no.10846/50 dated 21.05.2012 had directed all the SE under North Zone to shift the AP connections, which were earlier running from the other category feeders, to Rural Feeder. Replication was filed by the plaintiff-appellants.

3. On the basis of the pleadings of the parties, the following issues were framed :

- i. Whether the plaintiffs are entitled to the relief of declaration, as prayed for ? OPP
- ii. Whether the plaintiffs are entitled to the relief of mandatory injunction, as prayed for ? OPP
- iii. Whether the suit is not maintainable in the present form ? OPD
- iv. Whether the plaintiffs have got no locus-standi or cause of action to file the present suit ? OPD

v. Whether this Court has jurisdiction to entertain & try the present suit ? OPD

vi. Relief.

4. Vide judgement and decree dated 02.02.2017 the Trial Court dismissed the suit of the plaintiff-appellants. Their appeal was also dismissed by the First Appellate Court vide judgement and decree dated 06.04.2018. Hence, the present regular second appeal by the plaintiff-appellants.

5. Learned counsel for the plaintiff-appellants has contended that the impugned judgements and decrees of the Trial Court and the First Appellate Court are illegal and erroneous and based upon conjectures and surmises. It is argued that the defendant-respondents cannot unilaterally change the supply line of the plaintiff-appellants from Urban Industrial to Rural. As per counsel the suit of the plaintiff-appellants ought to have been decreed.

6. Heard learned counsel for the plaintiff-appellants and perused the paperbook.

7. Both the Courts have reached concurrent findings of fact that the plaintiff-appellants were earlier getting electricity for their motors from the Urban Industrial Feeder. The change-over to the Rural Feeder would not cause any interruption in the supply of electricity. The shifting has been necessitated due to a policy decision of the Government. The plaintiff-appellants have failed to show that the change-over from Urban Industrial Feeder to Rural Feeder was in violation of the rules or the Electricity Act. Further, a mandatory injunction is granted to prevent the breach of an

obligation or when there is a necessity to compel the performance of certain acts. In the present case the plaintiff-appellants have not made out a case that there was a breach of any obligation by the defendant-respondents or that there was some necessity to compel the defendant-respondents to continue the supply from the Rural Feeder. There is no material available on the record to make out a case for grant of mandatory injunction in favour of the plaintiff-appellants. No other point has been argued.

8. In view of the above, I do not find any merits in the present appeal. No question of law, much less any substantial question of law, arises in the present case. The appeal, being devoid of any merits, is accordingly dismissed. Pending applications, if any, also stand disposed off.

20.02.2024

Aman Jain

**(ALKA SARIN)
JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO