

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

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CR-7236-2023 (O&M)
Date of decision:30.01.2024

Shanti Devi

... Petitioner

Vs.

Ram Pal @ Ram Lal & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Tribhawan Singla, Advocate for the petitioner.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed by plaintiff/petitioner against the order dated dated 02.11.2023 passed by the Additional District Judge, Ambala, whereby the appeal filed by defendants No.1 to 3 has been disposed of and the trial Court has been directed to decide the stay application afresh after considering the written statement filed by defendant No.4.

2. Relevant facts which are necessary for adjudication of the present revision petition are that the petitioner/plaintiff filed a suit for declaration to the effect that the petitioner/plaintiff is owner in possession of land measuring 38 kanal, 18 marlas and 6 Sarsai as detailed in the head note of the plaint of the said suit, including a tubewell and electricity connection bearing Account No.A34-CA-201057-A situated/located in khasra No.54//15 (8-0). Relief of permanent injunction was also sought for restraining defendants No.1 to 3 from obstructing the plaintiff forcibly, illegally and unauthorizedly from the lawful and peaceful use of the

abovesaid tubewell and electric connection.

3. Defendants No.1 to 3 filed a written statement and on the basis of the pleadings of the parties, the trial Court vide order dated 06.04.2023 granted injunction in favour of the petitioner/plaintiff. The respondents preferred appeal against the order dated 06.04.2023 before the District Judge, Ambala. The First Appellate Court vide the impugned order dated 02.11.2023 set aside the order dated 06.04.2023 passed by the trial Court and remanded the case back to the trial Court to decide the stay application afresh after considering written statement filed by defendant No.4. Hence, aggrieved by the same, the present revision petition has been filed by the petitioner/plaintiff before this Court.

4. Learned counsel for the petitioner has contended that the impugned order dated 02.11.2023 remanding the case back to the trial Court is totally illegal, arbitrary and against the facts proved on record. He has argued that while granting the ad interim injunction only prima facie case has to be seen and on the basis of the sale deed produced by the petitioner/plaintiff, it is clear that the electric connection bearing No.A-34-CA-201057A is situated in Khasra No.54//15 (8-0) and in the sale deed, it is clearly mentioned that the electric connection bearing No.C-201057A has been handed over to the petitioner. So as the plaintiff/petitioner has purchased the electric connection along with land and thereafter got changed the electric connection in her name, so findings of the lower Court are totally wrong and are liable to be set aside.

5. I have heard learned counsel for the petitioner at length and gone through the record.

6. From the perusal of the impugned order, it is revealed that the impugned order was passed by the trial Court on 06.04.2023 whereas the written statement and reply by defendants No.4 - Electricity Department was filed on 05.07.2023. It was alleged therein that on application of defendant No.3 - Anupam and after furnishing of affidavit of Harkesh Singh, electricity connection of tubewell bearing No.1794312000 which was previously in the name of the previous owner Harkesh Singh was transferred by defendant No.4. It has been observed by the First Appellate Court that since written statement of Electricity Department was not on record, when the stay application was disposed of, the trial Court was directed to decide the stay application afresh after considering the written statement filed by defendant No.4 and after calling the record relating to the old electric connection bearing No.A34-CA-201507A and the new electric connection said to have been released/issued on application of defendant No.3. As vide order dated 26.04.2023 of the trial Court, the trial Court has finally disposed of the application under Order 39 Rule 1 and 2 read with Section 151 CPC for grant of injunction moved by the plaintiff/petitioner, so the stay application was to be disposed of after completion of pleadings by all the parties to the suit. As the relief of injunction had been sought qua the tubewell and electric connection in dispute, so written statement of defendant No.4/Uttar Haryana Bijli Vitran Nigal Limited was material to know their stand. But as the stay application was disposed of without calling on record the written statement of defendant No.4, so the case has been rightly remanded back by the First Appellate Court to decide the same afresh after considering the written statement by defendant No.4, which had already been filed.

7. The impugned order passed by the First Appellate Court is a well reasoned order and does not suffer from any illegality or perversity. Therefore, considering the facts and circumstances of the case, no reason for interference is called for in the impugned order by way of exercising the revisional jurisdiction.
8. Being bereft of any merit, this revision petition stands dismissed.
9. Pending application(s), if any, shall also stand disposed of.

(SUKHVINDER KAUR)
JUDGE

30.01.2024
harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |