

AD-02
Ct No.10
14.08.2025
TN

FMAT 335 of 2025
IA No: CAN 1 of 2025
CAN 2 of 2025

Rajasthan Transformers and Switchgears
Vs.
North Bihar Power Distribution Co. Ltd.
and another

Mr. Jayanta Mitra, Ld. Sr. Adv.,
Mr. Sunit Kumar Singhania.
Mr. Kushal Chatterjee,
Ms. Kalpana Singhania

.... for the appellant

Mr. Umesh Prosad Singh, Ld. Sr. Adv.,
Mr. S.K. Poddar,
Mr. Shounak Mukhopadhyay

.... for the respondent no.1

Mr. Anirban Roy, Ld. Sr. Adv.,
Mr. Soumyadeb Sinha,
Mr. Hiranyak Gangopadhyay

.... for the respondent no.2

1. Affidavit-of-service filed today be kept on record.
2. The present appeal has been preferred by the plaintiff in a declaratory suit.
3. The plaintiff is the manufacturer of electrical transformers. Eight such transformers, out of the total ten for which orders were placed, were supplied to the defendant/respondent no.2 pursuant to a contract entered between the defendant/respondent no.2 and the defendant/respondent no.1. Out of those, seven have already been installed.
4. It is pleaded in the plaint that it was specifically stated in a work order issued to the plaintiff/appellant that the materials would be insured by the plaintiff till the

site and destination of defendant no.2/respondent no.2.

5. Subsequently, by a letter dated April 21, 2025 issued by the defendant no. 2 to the defendant no.1, it was indicated that one of the transformers manufactured and supplied by the plaintiff/appellant would be sent for further testing to a facility in Bhopal.
6. Learned senior counsel appearing for the appellant submits that by the impugned order, an initial order of ad interim injunction granted by the learned Trial Judge was vacated. However, it is pointed out by learned senior counsel, by placing reliance on the judgment of *Hindustan Petroleum Corpn. Ltd. vs. Super Highway Services*, reported at (2010) 3 SCC 321, that the guidelines to be followed by the said Corporation require that the dealer should be given prior notice regarding the test so that he or his representative also can be present when the test is conducted. It was further laid down that notice should be served on the dealer sufficiently early so as to give him adequate time and opportunity to arrange for his presence during the test and there should be admissible evidence for such service of notice on the dealer. Strict adherence to the above requirement, it was held by the Supreme Court, is essential, in view of the possibility of manipulation in the conduct of the test, if it is conducted behind the back of the dealer.

7. The learned Trial Judge, by an order dated April 25, 2025, granted ad interim injunction on the premise of such ratio to the effect that the defendant no.1 shall be restrained from conducting any test at the product-in-question at CPRI, Bhopal, in pursuance of its letter dated April 21, 2025 without giving sufficient prior notice and reasonable opportunity to the plaintiff to be present at the test site and if such test is conducted before communication of this order to the defendant no.1, in that case the result of such test shall not be used against and/or be binding upon the plaintiff.
8. Such order was subsequently vacated by the order impugned in the present appeal on August 04, 2025.
9. The learned Trial Judge, while doing so, *inter alia* observed that the defendant no.1, being well within its rights to get the supplied electrical transformers tested by a reputed accredited laboratory at CPRI, Bhopal, cannot be kept on hold by the court and consequently the court found that the plaintiff admittedly does not have *prima facie* case and balance of convenience in its favour and no irreparable injury would be caused to it if the defendant no.1 is permitted to get tested the goods supplied to it by the defendant no.2 to defendant no.2 at CPRI, Bhopal.
10. On such grounds, the ad interim order of injunction was vacated.
11. Upon hearing learned senior counsel, we find that there is no basis of the apprehension of the

plaintiff/appellant disclosed in the plaint as to the plaintiff being subjected to any penal action, if the results of the tests to be conducted indicate that there is some deficiency in the electrical transformers.

12. From the four corners of the plaint, we do not find any present cause of action or basis of apprehension in that regard by the plaintiff/appellant; more so, since it has been pleaded in paragraph no. 14 of the plaint that the work order itself specified that the materials would be insured by the plaintiff only till the site and destination of the defendant no.2.
13. Thus, any penal action, if taken, would be between the defendant no.1 and the defendant no.2, even as per the averments in the plaint and the injunction application.
14. In any event, if any action is sought to be taken against the plaintiff on the ground of supply of faulty materials, the defences as disclosed in the plaint, to the effect that the limited liability of the plaintiff extended up to insurance to the site and destination of the defendant no.2 and that prior tests were already held at the time of supply of such electrical equipment, will be available to the plaintiff/appellant.
15. The facts of *Hindustan Petroleum Corpn. Ltd.(supra)* were different from the present case, as in the said case, there was a present and existing threat as the dealers' contract had already been terminated, as

opposed to the case at hand, where no such threat has been pleaded to be issued or even contemplated.

16. Hence, we do not find any current basis for grant of injunction in favour of the plaintiff/appellant. It is trite law that for a future or prospective cause of action, the rudiment of which is not rooted in the present, injunction cannot be granted by courts.
17. Thus, we are of the opinion that in addition to the grounds given by the learned Trial Judge while passing the impugned order, the defendant no.1 would be subjected to undue hardship if the ad interim order was permitted to continue, since it is well within the domain and prerogative of the defendant no.1 to have the equipment purchased by it tested by its own chosen technicians.
18. In such view of the matter, we do not find any illegality or infirmity in the impugned order.
19. Accordingly, FMAT 335 of 2025 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure in the light of the observations made above. Consequentially, CAN 1 of 2025 as well as CAN 2 of 2025 are disposed of.
20. It is made clear that the above findings are all tentative in nature, arrived at only for the purpose of considering the present appeal from an order passed under Order XXXIX Rule 4 of the Code of Civil Procedure and shall not, in any manner, adversely prejudice either of the parties or influence the trial

court in any manner at any subsequent stage of the suit.

21. There will be no order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)