

2025:PHHC:027737



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

CR-5551-2023 (O&M)

Date of Decision: February 21, 2025

Adish Jain

...Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Avnish Mittal, Advocate
for the petitioner.

Mr.B.R.Mahajan, Senior Advocate with
Mr.Arvind Seth, Advocate
for the respondents.

ARCHANA PURI, J.

The petitioner has invoked the jurisdiction of this Court under Article 227 of the Constitution of India, thereby, making a prayer for setting aside the impugned judgment dated 19.08.2023 passed by learned Addl. District Judge, whereby, the order dated 24.11.2022 passed by learned Addl. Civil Judge (Sr. Divn.), on an application under Order 39 Rule 1 and 2 CPC, was set aside and the application was dismissed.

The facts germane, to be noticed, are as under:-

That, the petitioner/plaintiff had filed a suit for mandatory injunction for seeking issuance of directions to the respondents/defendants to release

**CR-5551-2023****-2-**

the electricity connection to the plaintiff in respect of factory premises, as detailed therein and also further sought permanent injunction, to restrain the defendants from making any recovery of the amount, as arrears of electricity due, from the plaintiff or his uncle, namely, Sandeep Jain, in any manner.

It was averred in the plaint that the premises in question was previously owned by the father of the plaintiff/petitioner, namely Sh. Manish Jain and his real brother Sh. Sandeep Jain, both sons of Bharat Bhushan Jain, which they had purchased vide sale deed dated 27.01.2009. In the said premises they were having electricity connection bearing old account No.KMS214/JMS214. However, in the year 2016, the plaintiff had rented out the premises to one Raj Kumar Ahuja, Proprietor of M/s Shiv Bhola Panel, alongwith electricity connection installed therein, on a monthly rent of Rs.1,00,000/- and as such, the uncle of the plaintiff, namely Sh. Sandeep Jain, duly informed defendant No.2, regarding renting out of the premises to said Raj Kumar Ahuja and has further informed that with effect from 01.04.2016, now it is the responsibility of said Raj Kumar Ahuja, tenant to make the payment, in respect of the aforesaid electricity connection. Defendant No.2 duly acknowledged the letter, after affixing signatures thereon. Thereupon, Raj Kumar Ahuja started making payment of the electricity connection and all the payments qua the account No.KMS214/JMS214 was made by said Raj Kumar Ahuja, till date. However, Raj Kumar Ahuja made a default in payment of electricity bills, in connivance with the employees of defendant department and a huge amount

**CR-5551-2023****-3-**

of Rs.32 lakh is allowed to be accumulated against that account number of electricity connection.

After 01.04.2016, it was the responsibility of tenant Raj Kumar Ahuja to make the payment of the alleged electricity connection and as such, the uncle of the plaintiff was never informed regarding the non-payment of electricity charges by tenant, till date. Since it is the responsibility of Raj Kumar Ahuja to make the payment of electricity dues, after 01.04.2016, which he failed to pay and further acknowledging the responsibility and liability of Raj Kumar Ahuja, defendant No.2 had duly transferred the defaulting amount, in the another electricity connection account of said Raj Kumar Ahuja, installed in different premises bearing account No.3389270000, as much as, defendant No.2 had duly informed the Sub Divisional Officer (Op.), City Sub Division UHBVN, Jagadhri vide memo No. 563 dated 21.08.2019 requiring him to add an amount of Rs.31,69,041/-, which is outstanding against Raj Kumar Ahuja qua the electricity connection bearing account No.KMS214/JMS214, in the another electricity connection account number of Raj Kumar Ahuja, bearing old account No.JC13-7933 and now, present account No.3389270000. Apart from this letter, another letter No.4244 dated 08.06.2020, an amount of Rs.22,851/- was transferred to the office of SDO (Op.), City Sub Division, Jagadhri by defendant no.2, for debiting in the account No.JC13-7933 of Raj Kumar Ahuja.

As such, it has been duly acknowledged by the defendants that after 01.04.2016, it is the responsibility and liability of said Raj Kumar Ahuja, to

**CR-5551-2023****-4-**

pay the amount of electricity connection bearing account No.KMS214/JMS214, as he is using the same at tenanted premises. Further, also it was averred that as per latest bill downloaded by the uncle of the plaintiff, namely Sandeep Jain, the current balance of Rs.0.81/- is outstanding against the electricity connection in his name, previously installed in the premises in dispute. Thus, all the arrears outstanding in the name of Sh. Sandeep Jain already stood transferred in the account of Raj Kumar Ahuja, after duly acknowledging his liability to make the payment after 01.04.2016.

The property in question vide transfer deed No.493 dated 20.04.2016 was transferred in the name of petitioner-plaintiff and his cousin brother Pranshu Jain, the joint owners and being joint owners, they were collecting the rent of the premises from Raj Kumar Ahuja. However, tenant stopped payment of rent in the year 2020. In October 2021, Raj Kumar Ahuja flatly refused to make the payment of arrears of rent.

Now, the plaintiff-petitioner wants to start his own business in the premises in dispute and he applied to release the new electricity connection, in his own name, qua the premises in question on 24.05.2022, but the defendants rejected his application disclosing that there is defaulting amount, standing against the premises. No default has been committed by the plaintiff and he cannot be penalised for the default committed by Raj Kumar Ahuja. Hence, the suit.

In pursuance of the notice issued, the defendants made appearance and filed written statement. Besides taking preliminary

**CR-5551-2023****-5-**

objections, it was also asserted that old electricity connection bearing No.KMS214/JMS214 was standing in premises of Manish Jain s/o Bharat Bhushan Jain and the same was standing in the name of Manish Jain and Sandeep Jain, as per record of Department. This electricity connection was disconnected permanently vide book No.15/45 dated 25.05.2019 due to non-deposit of the defaulting amount of Rs.17,72,670/- in the account of defendants-respondents. They had prepared the record through ledger and calculated defaulting amount as Rs.30,92,314/-. The above said amount of Rs.30,92,314/- is pending towards the consumer. Further also, it was asserted that as per circular No.3/2013 and 37/2021, if the electricity connection had been disconnected 5-6 months ago, the holders/any person cannot get the relief of electricity connection, in the same premises, without depositing the defaulting amount and the defendants have already intimated the plaintiff-petitioner. But however, the plaintiff intentionally and deliberately filed the false suit, to harass defendants.

After hearing counsel for the parties on an application under Order 39 Rule 1 and 2 CPC, vide order dated 24.11.2022, the said application was allowed, to the extent that the defendants were directed to release new electricity connection in the name of petitioner-plaintiff, for the premises in dispute and further the respondents-defendants were restrained from making any recovery of amount, as arrears of electricity from the plaintiff or his uncle namely, Sandeep Jain, in any manner whatsoever, till the disposal of the case.

**CR-5551-2023****-6-**

Being aggrieved, the respondents-defendants had filed an appeal and learned lower Appellate Authority, vide impugned judgment dated 19.08.2023 had allowed the appeal and consequently, application under Order 39 Rule 1 and 2 CPC was dismissed.

Feeling aggrieved, the petitioner-plaintiff has filed the present revision petition.

Upon notice, the respondents-defendants made appearance through counsel.

Learned counsel for the parties heard.

Taking into consideration the contents of the pleadings of the parties as well as the going through the order and judgment passed on the application, it is pertinent to mention that premises in dispute, was the ownership of father of the petitioner-plaintiff and his uncle Sandeep Jain, qua which, the electricity connection bearing old account No.KMS214/JMS214 was released/installed. Also, it is evident that vide transfer deed dated 20.04.2016, the premises in question was transferred in the name of the petitioner-plaintiff and his cousin brother. Further, it is the version of the petitioner-plaintiff that the premises in question was rented out to Raj Kumar Ahuja, proprietor of M/s Shiv Bhola Panel in the year 2016 along with the electricity connection and further, it is the version of the petitioner-plaintiff that intimation of the same was given to the defendant-department. It is not disputed that there were outstanding arrears of electricity dues. Also it is evident from the pleadings that electricity connection was disconnected permanently vide book No.15/45 dated

**CR-5551-2023****-7-**

25.05.2019, on account of default in making the payment of the electricity dues.

In the backdrop of the aforesaid straightened facts, it is pertinent to mention that the petitioner-plaintiff, while asserting himself to be the owner of the premises in question along with his cousin, now intend to seek the release of new electricity connection from the defendant-department, qua the defaulting premises in question.

In the light of the facts as observed aforesaid, it is evident that the premises in question was rented out to Raj Kumar Ahuja. Though, it is the version of the petitioner-plaintiff that the communication was given to the defendant-department, regarding the premises having been rented out to Raj Kumar Ahuja, but however, when it was so given, the mention thereof, is not made in the pleadings. However, there is copy on the paper-book of the letter written, with regard to this electricity connection. Perusal of the same reveals that the petitioner therein, had stated about the factory having rented out to Raj Kumar Ahuja, proprietor of M/s Shiv Bhola Panel, from 01.04.2016 onwards and further that, from April 2016, the responsibility of payment regarding this electricity connection is of Raj Kumar Ahuja.

Assuming the aforesaid letter to have been written, it is pertinent to mention that the date mentioned therein is 27.12.2020. In such circumstances, it was only after the disconnection of the electricity connection in question that this letter had been written. As per the Sales Circular No.U-03/2013 issued, as and when there is transfer of ownership or right of occupancy of premises, the registered consumer is required to



intimate the transfer of right of occupancy of the premises, within 15 days to the Assistant Engineer/Assistant Executive Engineer concerned.

However, in the present case, as evident from the letter stated aforesaid, the said intimation was not given within the requisite period. Besides this letter, there is nothing as such pleaded or the document annexed, as to when this intimation was given. In fact, in the pleadings, there is no mention made about the date, as to when this intimation was given.

Once it is so, the prime responsibility lies with the owners of the premises, with regard to the outstanding amount. Simply on the score of writing of the letter, much after the disconnection, it cannot be held, at this stage, about there to be due acknowledgment on the part of the respondents, while writing about the diverting of the arrears to the other account of Raj Kumar Ahuja. The prime responsibility continues to remain of the owner of the demised premises.

In the given circumstances, as per the circular of the respondent-department, if the new connection or re-connection is required to be given to any premises, then arrears of any account due to the Nigam, are required to be cleared in advance and if new owner/occupier/allottee remits the amount due, from the previous consumer, the Nigam shall provide re-connection or new connection, depending upon, whether the service remains disconnected/dismantled, as the case may be.

Further, it also provides that the amount so remitted, shall be adjusted against the dues from the previous consumer and if the Nigam gets the full



or partial dues from the previous consumer through legal proceedings or otherwise, the amount remitted by the new owner/occupier, to whom the connection has been effected, shall be refunded to that extent.

In the light of the aforesaid circular, when the lapse is evident, on the part of the owner of the demised premises, about intimation having not been given to the department, about the inception of tenancy, within the given time frame, then the liability remains of the owner of the premises. Such condition, being there for the payment of arrears due from the previous consumer in that premises, the subsequent consumer has to comply with that condition, with the remedy being there, for recovery of such dues from the previous consumer.

In the light of the aforesaid discussion, as such, no irregularity in law or procedure, has been committed by learned lower Appellate Court, while accepting the appeal and consequently, dismissing the application under Order 39 Rule 1 and 2 CPC.

In this premise, the instant revision petition is hereby dismissed.

February 21, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No