
(2009) 08 P&H CK 0072
In the Punjab And Haryana At Chandigarh

Haryana Vidyut Parsaran Nigam and Another	APPELLANT
Vs	
Mayur Industries Ltd.	RESPONDENT

Date of Decision : 21-08-2009

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151
Constitution of India, 1950 — Article 227

Citation : (2010) 158 PLR 275

Hon'ble Judges : Sham Sunder, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sham Sunder, J.—This revision-petition under Article 227 of the Constitution of India, is directed, against the order dated 22.05.08, rendered by the Court of Civil Judge (Junior Division), Gurgaon, vide which, it accepted the application, under Order 39, Rules land. 2, read with Section 151 of the Code of Civil Procedure, filed by the plaintiff/respondent, and the order dated 04.04.09, rendered by the Court of District Judge, Gurgaon, vide which, it dismissed the appeal.

2. About 8 years, prior to the filing of the suit, the plaintiff/respondent, constructed a building, after obtaining CLU, from the Government of Haryana, and started manufacturing unit, under the name and style of M/s Mayur Industries Ltd., employing 80/85 workers. At the time, the building, was constructed, .there were four electric poles installed over an area, measuring 8" x 8", in the land, which the plaintiff, had left unused. The said poles, were not being used, for laying thereon electric wire, and rendered useless, for the last about 8 years. The plaintiff, received a letter dated 21.12.06, from the Senior Sub Station Engineer-III, HVPNL, Pataudi, alleging that the building was unauthorized and constructed against the Indian Electricity Rules, 1956. They also threatened to remove the building. These letters, were duly replied to by the plaintiff, stating therein, that it had not committed any violation of the rules. The

defendants, also made their intention clear, that they were going to lay the HT line of 66000 KV from over the roof and adjacent to the building of the plaintiff. They were, many a time asked, not to do so, but to no avail. On their final refusal, left with no other alternative, a suit for permanent injunction, was filed.

3. Alongwith the plaint, an application, under Order 39, Rules 1 and 2, read with Section 151 of the Code of Civil Procedure, seeking ad-interim injunction, was filed.

4. The defendants, put in appearance, and filed written statement, as also reply, wherein, it was stated that the plaintiff, had unauthorizedly and in violation of the electricity laws, extended its building, in such a manner that, it almost touched the electricity line, passing from the poles, in existence, for the last about 20 years. It was further stated that, in order to avoid any unpleasant happening and fatal casualty, notice dated 21.12.06, was served upon the plaintiff, advising it to remove the unauthorized construction, which had been raised underneath the electricity line, through which, the supply of electricity was being given to Pataudi Town. It was denied that no electricity line, was laid, on the said poles. It was also denied that the answering defendants, had threatened to lay the HT line of 66000 KV, as averred by the plaintiff. It was further stated that since the plaintiff, had extended the building, in such a manner, that it was dangerously close to the electricity line, therefore, the same was de-energized, and the supply, was re-routed, through the alternate circuit SC, so that general public of Pataudi Town, did not suffer, from lack of electricity. The remaining averments, were denied, being wrong.

5. After hearing the Counsel for the parties, and, on going through the record, the trial Court, accepted the application.

6. Feeling aggrieved, an appeal, was preferred by the defendant/appellant, which was dismissed, by the Court of District Judge, Gurgaon, vide order dated 04.04.09.

7. Still feeling dissatisfied, the instant revision-petition, has been filed, by the revision-petitioners.

8. I have heard the Counsel for the revision-petitioners, and have gone through the documents, on record, carefully.

9. The Counsel for the revision-petitioners, submitted that the Courts below, were wrong, in coming to the conclusion, that the plaintiff/respondent, had not unauthorizedly and in violation of the rules, extended its Building, in such a manner that, it almost touched the electricity line, passing through the said poles. He further submitted that these electricity lines, have been passing, for the last about 20 years, but the same, were de-energized for sometime, and supply therefrom, was re-routed; through an alternative circuit, to avoid inconvenience to the general public of Pataudi Town.

10. After giving my thoughtful consideration, to the contentions, advanced by the

Counsel for the revision-petitioners, in my considered opinion, the revision-petition, deserves to be dismissed, for the reasons to be recorded, hereinafter. The building, in question, was constructed by the plaintiff, after obtaining CLU, from the Government of Haryana. This building, was recognized as industrial building. Had the electric line been in use, at the time, the building, was constructed, CLU, would not have been given by the Government of Haryana. After the CLU, was given, it could not be said, that the building, was unauthorized. According to the admission of the defendants/revision-petitioners, the electric lines, were de-energized and supply, was re-routed, through the other circuit. This clearly showed that the electricity lines, on the poles installed, in the land of the plaintiff, were not, in use, but had been de-energized since long. If, after the construction of the building, the defendants/revision petitioners, want to lay the high-tension line of 66000 KV on the poles, aforesaid, that would certainly cause damage to the building of the plaintiff. The Courts below, were, thus, right in coming to the conclusion, that there was a prima-facie case, in favour of the plaintiff/respondent; that he will suffer an irreparable loss, in case, the high-tension line was now laid, on the poles, as the electricity line had already been de-energized, before the building, was constructed; and that the balance of convenience also lay, in his favour. The order impugned, does not suffer from any illegality, material irregularity, or perversity, warranting the interference of this Court, in its revisional jurisdiction, under Article 227 of the Constitution of India. The submission of the Counsel for the revision-petitioners, being without merit, must fail, and the same stands rejected.

11. For the reasons recorded above, the revision-petition, being devoid of merit, must fail, and the same, is dismissed. Any observation made, in this order, shall not betaken as an expression of mind, on merits of the case.