
(2000) 05 P&H CK 0112
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 1675 of 2000

Haryana Vidyut Prasaran Nigam Ltd.

APPELLANT

Vs

D.H. Lawrence School

RESPONDENT

Date of Decision : 11-05-2000

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, Order 39 Rule 2

Citation : (2001) 1 CivCC 233 : (2001) 2 RCR(Civil) 402

Hon'ble Judges : Swatanter Kumar, J

Bench : Single Bench

Advocate : Mr. R.S. Tacoria, for the Appellant; Mr. Sandeep Khosla, for the Respondent

Judgement

Swatanter Kumar, J.—This revision petition is directed against the order dated 21.4.2000 passed by the learned Additional District Judge, Jhajjar, vide which the learned Judge allowed the appeal preferred by the appellant (respondent herein) and restrained the Haryana Vidyut Prasaran Nigam Limited from demanding the penalty of Rs. 1,63,400/- imposed by them on the appellant and directed them to restore the electric connection within 7 days from the date of payment of the bill. The Haryana Vidyut Prasaran Nigam Limited is aggrieved from the said order as according to them the school had tampered with the meter and the appellant had reversed the meter so as to bring down the reading of the meter considerably. In this fashion, the school authorities had tampered with the electric supply to the disadvantage to the Haryana Vidyut Prasaran Nigam. The petitioners herein had raised a bill of Rs. 88,819/- and had also imposed a penalty of Rs. 1,63,400/-.

2. The school authorities filed a suit for declaration and mandatory injunction directing the Haryana Vidyut Prasaran Nigam Ltd. to restore its electric connection without payment of the same amount. The learned trial Court, vide its order dated 10.1.2000 dismissed the injunction application but the learned first appellate court granted the above relief to the school.

3. I have heard learned Counsel for the parties at some length.

4. There shall be a serious doubt as to the very maintainability of the suit in view of the provisions of the Indian Electricity Act and the circulars issued by the Haryana Vidyut Prasaran Nigam Ltd. but this question has to be gone into during the regular trial of the suit. There is an inspection report, which has found that the meter has been tampered with by the school authorities. The Haryana Vidyut Prasaran Nigam Ltd. in normal course of its business, would be entitled to recover the penalty amount as well. The allegation of tampering and unauthorised consumption of the electricity has been denied by the school but that by itself would not suffice. While dealing with an application for injunction, court has to balance the equity between the parties, as parties still have to lead evidence in support of their respective contentions. The Nigam has acted in normal course of its business and it could not be said that the reports are false, manipulated one or cannot be looked into even for consideration of a case prima facie at this stage of the proceedings. I am of the considered view that it will be just, fair and equitable that the petitioners herein are directed to comply with the order passed by the learned first appellate Court subject to the condition that the respondent herein deposits at least 50,000/- towards the penalty imposed by the petitioners. No serious prejudiced will be caused to the interest of the respondent-school, as in the event the school ultimately succeeds, the said amount can safely be adjusted towards the electricity bills payable by it in future, It is not disputed that the school has already paid the electricity bills upto date, as demanded by the petitioners herein. The only dispute will be with regard to the penalty and would be determined during the course of trial.

5. for the reasons aforesaid, this revision is partly accepted. The order dated 21.4.2000 passed by the learned first appellate Court is modified to the extent that the school-respondent herein shall be entitled to restoration and/continuation of the electricity, if already restored, subject to deposit a sum of Rs. 50,000/-towards penalty amount claimed by the petitioners and regular payment of electricity bills raised by the petitioners herein for future consumption of the electricity. The balance amount of penalty imposed shall remain stayed during the pendency of the suit.

6. This revision is accordingly, disposed of with the above observations.

7. Revision partly allowed.