

(2019) 05 P&H CK 0123

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 3054 Of 2018

Punjab State Transmission Corporation Ltd. And another

APPELLANT

Vs

Parvinder Singh

RESPONDENT

Date of Decision : 15-05-2019

Acts Referred:

Indian Telegraph Act, 1885 — Section 16

Citation : (2019) 05 P&H CK 0123

Hon'ble Judges : Amol Rattan Singh, J

Bench : Single Bench

Advocate : Atul Nanda, Vikas Chatrath, R.K. Singla

Judgement

By this 2nd appeal the appellant-Corporation challenges the judgments and decrees passed by the learned courts below, dismissing the suit instituted by it, by which it had, firstly, sought a decree of perpetual injunction restraining the respondent herein from creating a hindrance to electrical lines being laid over his agricultural land (by also erecting a tower in the said land to support such electrical lines).

Further, a decree of mandatory injunction was also sought, to the effect that the respondent be directed to remove the boundary wall constructed by him, thereby hindering the construction of the foundation on which the tower was to be erected, to give support to the electrical lines.

Upon the appeal having been taken up, a question having been put to Mr. Rajinder Kumar Singla, learned counsel for the respondent, with regard to whether he could deny the law settled to the effect that laying of electrical lines, pursuant to a statutory scheme duly notified by the Corporation, would not be hindered, he could not refute the position of law as settled by the Supreme Court in various judgments, including the Power Grid Corporation of India Limited vs. Century Textiles and Industries Limited (2017) 5 SCC 143 and of a Division Bench of this Court in Harbans Singh vs. Punjab State Transmission Corporation

Ltd (CWP No. 25966 of 2017, decided on 06.12.2017), followed by this Bench in Gurmukh Singh vs. Punjab State Power Corporation Limited and others (CR No. 4024 of 2018, decided on 24.01.2019).

He however submits that the tower sought to be erected is at a place where the respondent has constructed some sheds in his agricultural land for the parking of his tractor etc. and therefore the tower should not be allowed to stand at that place, for which a shed would have to be demolished.

Upon the aforesaid contention having been raised by Mr. Singla, Mr. Atul Nanda, learned Senior Counsel appearing for the appellant-Corporation, on instructions very fairly submits that since the location of the tower can be shifted to an adjacent place within the respondents' land away from the constructed portion therein, the Corporation would not insist on raising the tower (or the foundation upon which is to be raised) at the place on which sheds stand constructed, as of today.

Mr. Nanda (again on instructions), has stated that upon the respondent making an appropriate application to the competent authority, i.e. the District Magistrate, in terms of Section 16 of the Indian Telegraph Act, 1885, the said application would be considered on merits by the District Magistrate and compensation accordingly granted very expeditiously, within a period of two months from the date of the application.

That being so, and the aforesaid statements having been very fairly made, with learned counsel for the respondent also not denying that the respondent would not like to be in protracted litigation, I see no reason to go into the maintainability of the suit instituted by the appellant-Corporation (as per a doubt raised by this Court itself), or the power of the Civil Court to refuse an injunction, as the question of power to lay electric lines after a scheme is published, obviously stands settled, in terms of the ratio of the judgments aforesaid.

In view of the above, this appeal is allowed, with the impugned judgments and decrees set aside and the suit of the appellant Corporation decreed in its favour in terms of the statement made by learned Senior Counsel on behalf of the appellant-Corporation, with the Corporation naturally held bound to the said statement.

The matter having been settled as above, the respondent would not make any hindrance either in the tower being raised, or the electrical lines being installed over his land, other than on the constructed part thereof, as it stands today.

A decree sheet be prepared accordingly.