
(1992) 07 P&H CK 0026
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2648 of 1991

Sarwan Singh

APPELLANT

Vs

Ranjit Singh and Others

RESPONDENT

Date of Decision : 15-07-1992

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Electricity (Supply) Act, 1948 — Section 29

Citation : (1993) CivCC 322 : (1992) 102 PLR 649

Hon'ble Judges : N.C. Jain, J

Bench : Single Bench

Advocate : Kanwaljit Singh, for the Appellant; R.K. Malik, for Respondent Nos. 1 to 3 and R.L. Sharma and M.L. Khosla, for the Respondent

Final Decision : Allowed

Judgement

N.C. Jain, J.—The petitioner filed a civil suit for restraining the Sub-Divisional Officer, respondent No. 4 from taking the electric connection to electric motor of respondents No. 1, to 3 and from installing poles and stretching the wire through his land comprised in Khasra Nos. 12/13 and 10/15 measuring 8 Kanals situated in village Dharamgarh.

2. It is the case of the petitioner that respondent No. 4 could not instal pipe line etc. through his land for the supply of electricity to the tube well of respondent No. 1 to 3 Along with the suit, an application for ad-interim injunction was filed.

3. The suit as well as the application were contested. The courts, below declined the interim injunction thus giving rise to the filing of the present revision petition.

4. It has been argued by the counsel for the petitioner that the authorities acting under the Electricity (Supply) Act, 1948 (for short the Act") are bound to sanction and publish the Scheme before installing the pipe line etc. in the land of an individual. When the aforesaid argument was raised on the last date of hearing, I vide my order of July 7, 1992, adjourned the case for today for

providing an opportunity to the counsel for respondent No. 4 to produce before this Court the records of the case showing the publication of the Scheme as required by Section 29 of the Act. Mr. R. L. Sharma, learned counsel appealing, for respondent No. 4, was not in a position to submit that any publication was done. The petitioner's counsel has drawn the pointed attention of this Court to the provisions of Section 29 of the Act. On the other hand, he has argued that since the scheme dealt with installation of large number tube wells, it must have been published.

5. After hearing the learned counsel for the parties, I am of the view that this revision petition deserves to be allowed. Section 29 of the Act envisages not only the sanctioning of the scheme but also the publication of the scheme in the official gazette and in such local newspaper as the authorities consider it necessary, I am further of the view that prima facie the action of respondent No. 4 is hit by Section 29 of the Act which appears to be mandatory in nature. The basic object of publishing the scheme by public notice is that persons who are likely to be affected may give representation and the authorities after considering the representation may make up their mind regarding the installing of pole lines etc. elsewhere by using the land of another licensee if there is force in the representation. Until and unless the schema is published such an object cannot be achieved.

6. For the reasons recorded above, the revision petition is allowed and the order of the Courts below are quashed. Ad-interim injunction is issued restraining respondent No. 4 from taking the pipe lines and installing the poles in the land of the petitioner. However, nothing observed herein would mean expression of any opinion on the merits of the case, If the contest is made on the aforementioned point and the respondents are able to show that publication was made the court would decide the case after taking the factual position into consideration The trial Court is directed to dispose of the main suit within a period of six months from today.

7. The parties through their counsel are directed to appear before the Court on 23rd July, 1992.