

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

263

CR-1153-2022

Date of decision: 19.12.2022

Om Parkash

.....Petitioner

Versus

Balkar Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Manoj Kumar Pundir, Advocate
for the petitioner.

Mr. Shantanu Bansal, Advocate
for respondent No.1.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is impugning the order dated 28.02.2022 (Annexure P-6) passed by learned Additional District Judge, Yamuna Nagar vide which his appeal preferred against the order dated 19.01.2022 (Annexure P-4) passed by learned Civil Judge (Jr. Divn.), Yamuna Nagar at Jagadhri, for grant of interim relief, by ordering the restoration of electricity connection in his shop, was dismissed.

Learned counsel appearing for the petitioner submits that the impugned order suffers from patent illegality and being violative of the fundamental rights of the petitioner, deserves to be set aside. He submits that the Courts below while passing the impugned orders failed to appreciate that the petitioner was in possession of the suit property and since electricity is a basic amenity, he could not be deprived of the same. He further contends that the electricity connection was disconnected by respondent No.1 with an ulterior motive so as to force the petitioner to vacate the suit property. He still further contends that

the malafides on the part of respondent No.1 are writ large from the fact that he had filed a suit for seeking possession of the suit property (Annexure P-3) against the petitioner subsequent to the suit for permanent injunction instituted by the petitioner. In support of his submissions, learned counsel has placed reliance upon ***Dilip (dead) through LRs Vs. Satish and others : 2022(9) Scale 759*** and ***Dipali Dey (Baxi) Vs. Mira Das : 2010(8) RCR (Civil) 2912.***

Per contra, learned counsel appearing for respondent No.1 while vehemently controverting the submissions made by the counsel opposite, contends that it was a matter of record that as per the rent agreement dated 07.07.2021, the lease pertaining to the suit property, in favour of the petitioner stood expired on 30.09.2021. Hence, in the circumstances, the petitioner had no right to continue being in possession of the suit property. Learned counsel further submits that respondent No.1 had even terminated the tenancy of the petitioner vide legal notice dated 04.10.2021, hence, the status of the petitioner now was of a illegal occupant and as such he had no right to claim restoration of electricity connection.

I have heard learned counsel and perused the relevant material on record.

Admittedly, respondent No.1 has filed a suit for possession of the suit property along with recovery of mesne profits, which is still pending adjudication, therefore, the question as to whether the petitioner is an illegal occupant of the suit property or not, or as to whether he is liable to be evicted or not, would be a matter of trial. The fact of the matter is that the petitioner is in possession of the suit

property and still further his eviction has not yet been ordered by a competent Court of law.

It cannot be over-emphasized that electricity being a basic necessity, is an integral part of right to life as enshrined under Article 21 of the Constitution of India. Therefore, as long as the petitioner is in possession of the suit property, he cannot be deprived of electricity.

In the facts and circumstances, without commenting upon merits of the suits instituted by both the parties, the instant revision petition is allowed and the impugned orders are set aside. The electricity connection of the suit property be restored subject to payment of requisite charges by the petitioner, if any, till the final decision of the suit filed by him. It is clarified that the petitioner shall continue to pay the electricity charges regularly.

Anything contained hereinabove shall not be construed to be an expression of opinion on the merit of the suits pending between the parties.

19.12.2022

Vinay

**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No