

**IN THE COURT OF SH. NAVEEN KUMAR-I, CIVIL JUDGE
(JUNIOR DIVISION), PALWAL.**

Civil Suit No. : 01 of 2018.
C.I.S. No. : CS/0002 / 2018.
Date of Institution : **02.01.2018.**
Date of Int. Order : **27.02.2018.**

**Application for Temporary Injunction Under Order 39 Rule 1 & 2
CPC read with Sec. 151 of CPC.**

Present:- Sh. K.S. Chauhan, Ld. Counsel for the plaintiff/applicant.
Sh. Devinder Singh, Counsel for defendants/respondents.

ORDER :-

This Order shall dispose of an application filed by the applicant/plaintiff (hereinafter referred as to “**plaintiff**”) under Order 39 rule 1 & 2 read with Section 151 of CPC for grant of temporary injunction.

2. In brief, it was submitted that the plaintiff has an electricity connection bearing account no. D-605800000 and he has been paying the electricity charges and bills time to time and never indulged in any mal-practices and never committed any offence of theft of electricity. The defendant's department has sent a notice i.e. LL1 No. 576/24 dated 15.11.2017 and imposed a penalty of Rs. 74,573/- upon

him but his premises was never checked on 15.11.2017 and the officials of defendant's department never visited to his house. The defendants on the basis of said notice are now bent upon to recover the penalty amount and also got registered an FIR No. 12206 dated 28.11.2017 under Section 135 & 151 of Indian Electricity Act and also sent a notice under Section 160 Cr.P.C. The plaintiff has asked and requested the defendant's department not to do so and not to recover said illegal amount but all went in vain. If the defendant succeeds in doing so then the plaintiff will suffer irreparable loss or injury which cannot be compensated in any other manner as a prima-facie case is exists in his favour and balance of convenience is also tilted in his favour. Hence, he has filed the instant application.

3. Defendants have appeared and filed its reply and thereby submitted that the plaintiff has an electricity connection as mentioned in the para no. 1 of the plaint. The officials of defendant's department checked the premises of plaintiff on 15.11.2017 and **load was found as 3586 Wt. and the plaintiff was found taking direct supply of energy from main wire by putting a cut from meter through PVC black colour Cable of 10 m.m. the plaintiff was found committing the theft of electric energy.** The videography of such

checking was also done. Therefore, the plaintiff is liable to make the payment of penalty of Rs. 74573/- to the defendant's department. The said checking was conducted in the presence of plaintiff. Rest of the averments denied specifically and a prayer for dismissal of the present application with costs has been made.

4. I have given the thoughtful consideration to the contentions raised by learned counsel for both the parties and have gone through the record available on case file very carefully and minutely.

5. It is a settled principle of law that at the stage of deciding the application for temporary injunction, the court is not required to go into the merits of the case in detail. However, the court has to examine whether the plaintiff in order to establish her claim has proved the three cardinal principles, which are as under:-

1. Prima-facie Case;
2. Balance of Convenience;
3. Irreparable loss and injury.

6. At this stage, the applicant/plaintiff has to prove a prima-facie case in his favour. Prima facie case means that he has a case which is not liable to be thrown at the outset but which requires

given consideration. Prima-facie case means that the contentions which the plaintiff is raising requires merit consideration and are not liable to be rejected summarily.

7. Coming to the facts of the present case. As per plaintiff, the defendants never conducted any raid in his premises and got served a notice of penalty of Rs. 74573/- and also bent upon to recover the said illegal amount from him. On the other hand, the defendants have contended that all the proceedings of raid were properly conducted in the presence of plaintiff and he was found committing the theft of electricity and accordingly, he is liable to pay the said penalty.

8. In the present case, the plaintiff has merely asserted that an illegal checking was conducted at his premises by the defendants department's staff. However, as per the checking report dated 15.11.2017, premises of plaintiff were checked in his presence and the **load was found as 3586 Wt. and the plaintiff was found taking direct supply of energy from main wire by putting a cut from meter through PVC black colour Cable of 10 m.m. the plaintiff was found committing the theft of electric energy.** Therefore, in the present case, at this stage, the plaintiff has failed to

lead any cogent evidence or proof in support of his contentions and nothing has been placed on record to corroborate with the same.

9. So, in view of above discussion, at this stage, this court is of the considered view is that the plaintiff has no prima-facie case in his favour and balance of convenience also not tilted in his favour and he will not suffer any irreparable loss or injury if the injunction is not granted in his favour. **Hence, finding no merits in the instant application, the same stands dismissed and disposed of accordingly.** Needless to say anything expressed herein above shall not be construed to be my opinion on the merits of the case.

Announced in the Open Court:

Dated: 27.02.2018.

Naveen Kumar-I,
Civil Judge (Jr. Divn.),
Palwal, 27.02.2018.
(UID No. HR-0461).

Note:- All the **Five Pages** of this Order have been checked and signed by me.

V.P. Sharma,
Stenographer.

Naveen Kumar-I,
Civil Judge (Jr. Divn.),
Palwal, 27.02.2018.
(UID No. HR-0461).

Present:- Sh. K.S. Chauhan, Ld. Counsel for the plaintiff/applicant.
Sh. Devinder Singh, Counsel for defendants/respondents.

Arguments on injunction application advanced and the same are heard. Vide my Separate Order of even date, the injunction application has been dismissed being merit-less and disposed of accordingly.

Pleadings of the parties are complete. Ld. Counsel present on behalf of both the parties argued for settlement of issues. They are heard. The parties are advised to opt any mode of settlement prescribed by Section 89 CPC for the settlement of their dispute. Ld. Counsel present on behalf of both the parties stated at bar that there is no possibility of settlement of dispute through any mode of ADR. Therefore, let the case be decided on merits. From the pleadings of the parties, following issues are hereby settled down:-

1. Whether plaintiff is entitled to the decree for declaration to the effect that the impugned notice Under Section 160 Cr.P.C, vide FIR No. 12206 dated 28.11.2017, under Section 135 & 151 of Electricity Act issued by P.S. I & P, Sector-23, Faridabad and notice memo LL1-576/14 dated 15.11.2017 amounting to Rs. 74573/- is illegal, null & void and not binding upon the rights, etc. of plaintiff, on the grounds mentioned in the plaint, as prayed for? OPP
2. Whether the plaintiff is entitled to the decree for permanent injunction, as prayed for? OPP
3. Whether the suit of the plaintiff is not maintainable in the

present form? OPD.

4. Whether the plaintiff is not come before the court with clean hands and concealed and suppressed the true and material facts from the court? OPD.
5. Whether the plaintiff has no locus-standi & cause of action to file the present suit? OPD.
6. Whether the plaintiff is estopped from her own act and conduct from filing the present suit ? OPD
7. Relief.

No other issue is pressed or claimed. If there is any other issued the same stands waived. Now, to come upon **16.03.2018** for evidence of the plaintiff at own responsibility. Witnesses be summoned on filing of PF/DM/List of witnesses within 3 days. Examination-in-chief of the private witnesses shall be in the shape of affidavits. Copies of affidavits of such witnesses be furnished to the opposite counsel well in advance. If the copies of the such affidavit(s) be not supplied to the opposite counsel or supplied on the date fixed then the party who supplied the same or the party who is at fault then the said party shall be burdened with costs as the court deems fit.

Announced in the Open Court:

Dated: 27.02.2018.

V.P. Sharma, Steno-III.

NDOH : 16.03.2018.

Naveen Kumar-I,
Civil Judge (Jr. Divn.),
Palwal, 27.02.2018.
(UID No. HR-0461).

PURPOSE : Plaintiff evidence.