

(2014) 05 RAJ CK 0229

Rajasthan High Court (Jaipur Bench)

Case No: Civil Writ Petition No. 5031/2014

Ishwar Lal Saini

APPELLANT

Vs

JVNL and Others

RESPONDENT

Date of Decision: May 2, 2014

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 1 Rule 10

Hon'ble Judges: R.S. Chauhan, J

Bench: Single Bench

Advocate: Nawal Singh Sikarwar, Advocate for the Appellant

Final Decision: Dismissed

Judgement

R.S. Chauhan, J.

The petitioner-plaintiff is aggrieved by the order dated 14.3.2014 passed by the Civil Judge (Jr. Div.) & Judicial Magistrate, First Class, Dausa whereby the learned Magistrate has dismissed the temporary injunction application filed by the petitioner.

2. The brief facts of the case are that the petitioner-plaintiff filed a civil suit for permanent injunction against the respondents-defendants inter alia claiming that he obtained an electricity connection from the defendant, Jaipur Vidyut Vitaran Nigam Ltd., for running his stone factory. The said connection was given by the defendants under the self-deposit scheme and the entire expenses of the connection were borne out by him. But, the defendants now want to extend the individual electricity line of the plaintiff and want to give electricity connection through the said line to other persons. Therefore, a decree for permanent injunction was sought and it was prayed that the respondents be restrained from extending the electricity line upon the unit of the plaintiff and from giving electricity connection to anyone else from the said line. Alongwith the suit, an application for temporary injunction was also filed. But by order dated 14.3.2014 the learned trial

court has rejected the application. Hence, this petition before this court.

3. Mr. Nawal Singh Sikarwar, the learned counsel for the petitioner, has raised the following contentions before this court: firstly, the learned Magistrate was unjustified in rejecting the temporary injunction application filed by the petitioner. As, according to the reply submitted by the defendants themselves, they have raised the electric poles. Therefore, there is distinct possibility that they will draw the wire for electricity and that they will provide electricity connection to others. Moreover, those who are seeking connection, they too have filed their application under Order 1, Rule 10 CPC for impleading them as parties to the suit. According to these persons, they have already paid the requisite amount to the respondents. Therefore, the learned Magistrate ought to have granted a temporary injunction in favour of the petitioner.

4. Heard the learned counsel for the petitioner and perused the impugned order.

5. A bare perusal of the impugned order clearly reveals that the petitioner has not been able to submit any evidence to show that the defendants are about to give any connection to anyone. Even if for the sake of argument it is accepted that the poles have been constructed, no logical inference can be drawn that the connections to others are about to be given. Therefore, the petitioner has not been able to establish a prima facie case in his favour. His entire temporary injunction application seems to be based on misplaced apprehension. In absence of any prima facie case, the learned Magistrate was certainly justified in dismissing the temporary injunction application.

6. Therefore, this court does not find any perversity or illegality in the impugned order. This petition being devoid of any merit, is hereby dismissed. The stay application also stands dismissed.