

Pradeep Kumar Agarwal Vs. Union of India (Uoi) and anr.

Pradeep Kumar Agarwal Vs. Union of India (Uoi) and anr.

SooperKanoon Citation : sooperkanoon.com/498388

Court : Madhya Pradesh

Decided On : Sep-04-1998

Reported in : AIR1999MP65; 1998(2)MPLJ718

Judge : S.P. Srivastava, J.

Acts : [Telegraph Act, 1885](#) - Sections 7B; Telegraph Rules, 1951 - Rule 443

Appeal No. : W.P. No. 920 of 1998

Appellant : Pradeep Kumar Agarwal

Respondent : Union of India (Uoi) and anr.

Advocate for Def. : T.C. Singhal, Adv.

Advocate for Pet/Ap. : P.L. Jain, Adv.

Disposition : Petition allowed

Judgement :

ORDER

S.P. Srivastava, J.

1. A counter-affidavit/return has been filed in this case on behalf of the respondent on 5-8-1998. Copy of the aforesaid return had been supplied to the learned counsel for the petitioner on 27-8-1998.

The learned counsel for the petitioner states that the petitioner does not propose to file any rejoinder-affidavit denying or controverting the assertions made in the aforesaid return/counter-affidavit.

Heard the learned counsel for the petitioner as well as the learned counsel representing the respondents.

Perused the record.

1-A. The facts in brief shorn of details and necessary for the disposal of this case lie in a narrow compass. It is not in dispute that the telephone connection number 429208, was provided to Pradeep Kumar Agarwal, the petitioner. He is the subscriber so far as this telephone connection is concerned. Another telephone connection being No. 320895, has been provided to Jugal Kishore Agarwal. This subscriber however, is the brother of the petitioner.

2. The grievance of the petitioner is that the telephone-connection provided to the petitioner has been disconnected by the respondents on the ground of there being a default in the payment of the charges by the subscriber of telephone connection No. 320895. The contention is that the respondents had no jurisdiction to disconnect the telephone connection provided to the petitioner on the ground that another subscriber being provided with the telephone connection No. 320895, was a defaulter.

3. In the return/counter-affidavit filed by the respondents they have taken a stand that the telephone connection in dispute had been disconnected because Rs. 15,728/- is over due with respect to the telephone connection No. 320895. This assertion has been made in paragraph 3 of the return filed by them.

4. Rule 443 of the relevant rules is to the following effect :

'443. Default, of payment.-- If, on or before the due date, the rent or other charges in respect of the telephone service provided are not paid by the subscriber in accordance with these rules, or bills for charges in respect of calls (local and trunk) or phonograms or other dues from the subscriber are not duly paid by him. any telephone or telephones or any telex service rented by him may be disconnected

without notice. The telephone or telephones or the telex so disconnected may, if the Telegraph Authority thinks fit, be restored, if the defaulting subscriber pays the outstanding dues and the reconnection fee together with the rental for such portion of the intervening period (during which the telephone or telex remains disconnected) as may be prescribed by the Telegraph Authority from time to time. The subscriber shall pay the above charges within such period as may be prescribed by the Telegraph Authority from time to time.'

5. This Court has repeatedly held that the respondents cannot disconnect telephone connection of a subscriber on the ground that a relative of such a subscriber is a defaulter.

6. Considering the implications arising under the Rule 443 of the Indian Telegraph Rules, 1951 and Section 7B of the Telegraph Act, it has been held by this Court that such an action on the part of the respondents where telephone connection provided to a subscriber is disconnected on the ground of default of another subscriber is manifestly illegal. Reference in this connection may be made to the decision in the case of Mahesh Agrawal v. Union of India, reported in 1998 (1) MPJR 228 decision in the case of Chand Datta (Smt.) v. Union of India, reported in (1997) 2 MPLJ 523.

7. Taking into consideration the facts and circumstances brought on record and noticed hereinabove, this writ petition succeeds. The respondents are directed to reconnect the petitioner's telephone connection No. 429299 within a period of two weeks' from today.

8. So far as the quantum of compensation is concerned, it may be noticed that in paragraph 6.5, the petitioner had asserted that he is suffering a loss of Rs. 100/- per day on account of the wrongful disconnection of his telephone connection. In the return, in reply to the assertions made in the aforesaid paragraph, what has been asserted is that the petitioner should thank himself for disconnection as he has not deposited the instalment to pay up the outstanding balance which deposit obviously refers to the telephone connection No. 320895. The fact remains that the assertion of the petitioner that he is suffering a loss of Rs. 100/- per day has not been denied.

9. In the circumstances, it is further provided that in the event of default in complying with the aforesaid direction, the respondents shall be liable to pay compensation to the petitioner at the rate of Rs. 100/- per day.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com