

**Rstr Vs. Naraln Ram**

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**Court :** Rajasthan

**Decided On :** Nov-19-1996

**Reported in :** 1996(2)WLN645

**Judge :** Shiv Kumar Sharma, J.

**Appeal No. :** S.B. Civil Revi. Petition No. 653 of 1996

**Appellant :** Rstr

**Respondent :** Naraln Ram

**Disposition :** Petition dismissed

**Judgement :**

**Shiv Kumar Sharma, J.**

1. This revision petition is directed against the order dated 16.12.1995 and 8.8.1995 respectively passed by the District Judge, Sikar and Civil Judge (Senior Division) Danta Ramgarh, whereby the application under Order 39 Rules 1 and 2 CPC by the plaintiff non-petitioner has been allowed.

2. Brief facts are that the plaintiff instituted a civil suit in the trial court along with an application under Order 39 Rules 1 and 2 CPC stating therein that he applied for 'one Pole Scheme connection' and for that purpose he deposited Rs. 1,000/- with the Assistant Engineer. RSEB Danta Ramgarh. The Board had released certain

connections in serial order and the plaintiff non-petitioner has been placed at No. 1, but the employees of the Board wanted to breach the priority and are releasing the connections to others, as such the Board be restrained from releasing electric connections to any body else in breach of priority of the present non- petitioner.

3. In reply to the application, the defendant petitioner admitted that the non-petitioner had deposited Rs. 1,000/- in 'One pole scheme connection'. But the allegation of releasing connection out of priority has been denied. It has been categorically stated in the reply that the plaintiff-non- petitioner was involved in committing theft of electricity by connecting a wire directly with the electric line and he was caught red handed and in this respect a report of vigilance checking No. 1545/40 was prepared. In accordance with the instructions issued by the RSEB, the plaintiff non-petitioner was not entitled to get connection in 'one pole scheme connection' as he was found committing theft of electricity. As such the petitioner can be granted electricity connection in Nursery Scheme for which was given notice No. 288 on 22.3.95. The defendant petitioner placed memorandum of theft on record.

4. The trial court vide the impugned order issued temporary injunction in favour of the plaintiff non-petitioner. The defendant petitioner preferred to appeal against the said order but the same was also missed.

5. I have heard the learned Counsel for the petitioner Mr. Ashok Mehta and learned Counsel for the non-petitioner Mr. Hemant Singh, and carefully perused the impugned order. I see no reason to interfere in the concurrent finding of facts of the courts below and in my view the courts below have not committed any illegality in the exercise of jurisdiction vested in them. The impugned orders have been passed after discussing points pertaining to prima facie case, balance of convenience, and irreparable loss. In this case the question of facts are involved which can only be adjudicated after recording evidence of the parties and the objection raised by the defendant petitioner may be adjudicated at the time of final hearing of the suit.

6. Consequently, I dismiss this revision petition, but in the facts and circumstances of the case I direct that if an application under Order 39 Rule 4 CPC is filed by the

petitioner by placing some more documents on record, the trial court shall consider the application in accordance with law. No costs.

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