



DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD

(A Power Distribution & Retail Supply Utility, Govt. of Haryana)
AN ISO 9001:2008 Compliant Utility, CIN:-U99999HR1999SGC034165
Regd. Office: Vidyut Sadan, Vidyut Nagar, Hisar-125 005 (Haryana)
☎-01662- 223439(O), (Fax) 01662-223108; www.dhbvn.com
Email- seadmdhbvn@gmail.com; usgadhbvn@gmail.com

Memo No.Ch-52 /SE/Admn./Gen-8 A/Vol-III

Dated: 18 .06.2018

To

1. The Chief Engineers/OP, DHBVN, Hisar.
2. The Chief Engineers/OP, DHBVN, Delhi.
3. All SEs (OP) Circle in DHBVN.
4. All XENs (OP) Division in DHBVN.
5. All XENs Vigilance in DHBVN.
6. All SDQs (OP) Sub Division in DHBVN.

Subject: - CWP No. 2678 of 2016 titled as DHBVN & Ors V/s Mani Ram & Ors.

Please refer to the Memo No. 53/LB-2 (2382) Bhiwani 510A dated 04.05.2018 issued from the office of Legal Remembrancer, HPUs, Panchkula regarding judgment dated 09.02.2018 passed by Hon'ble High Court in favour of Nigam in the CWP No. 2678 of 2016 as mentioned in the subject. A copy of the said judgment is enclosed for reference.

It has been mentioned in the above said reference of L.R./HPUs that the Nigam filed Civil Revision against the interim order dated 14.01.2016 passed by Civil Judge (Jr. Division) Charkhi Dadri whereby Ld. Court directed that No FIR would be lodged by the department till the decision of Civil Suit as an application filed under Section 190 Cr. P.C. 1973 by the applicant/plaintiff against the Nigam.

The relevant extract of judgment dated 09.02.2018 as mentioned in the reference of L.R./HPUs is given as under:-

“After going through the file, I am of the view that the approach of the Civil Judge, who happens to be a comparatively young officer, is wholly illegal. In a civil suit, no power under Section 190 Cr.P.C. can be exercised to pass such order and restrain the department from exercising their lawful right in lodging the FIR in case of theft of electricity and conduct the recovery proceeding. The injunction order could only be passed on an application filed under Order XXXIX Rule 1 and 2

read with Section 151 CPC 1908 after obtaining the reply and on the basis of principle governing the grant and refusal of injunction.

The impugned order dated 07.01.2016 is patently illegal and is set aside. Keeping in view the circumstances of the case, the suit titled Mani Ram V/S SDO-cum- Assessing Officer and others, is withdrawn from the Court of Civil Judge (JD) Ch. Dadri and is transferred to the Court of Additional Civil Judge (SD) Ch. Dadri or the senior most officer."

In reference to above judgment, it has been advised by L.R./HPUs that Hon'ble Court may be prayed for dismissal of similar cases of Nigam by placing reliance on the judgment dated 09.02.2018 passed by the Hon'ble High Court.

In this context, it is requested to go through the above said judgment as well as connected references and comply with the advice of L.R./HPUs, Panchkula, regarding reliance on the judgment dated 09.02.2018.

This issue with the approval of CE/HR&Admn., DHBVN, Hisar.

DA: As Above.


S.E./Administration
DHBVN, Hisar

Copy to:

1. Sr. PS to the Chairman-cum-Managing Director, DHBVN, Hisar.
2. Sr. PS to the Director/Projects, DHBVN, Hisar.
3. PS to the Director/Operations, DHBVN, Hisar.
4. The Chief Engineer/HR & Admn., DHBVN, Hisar.
5. L.R., HPUs, Panchkula.
6. SE/IT, DHBVN, Hisar. He is requested to upload the judgment dated 09.02.2018 on Nigam's website.

HARYANA VIDYUT PRASARAN NIGAM LTD.

(Govt. of Haryana undertaking)

O/o Legal Remembrancer

Shakti Bhawan, Sector-6, Panchkula

Phone: 0172-2560769, 2571841 Fax: 0172-2560769

E-mail: lr@hvpn.gov.in

From

Legal Remembrancer,
HPU, Panchkula

To

✓ The CGM/Admn.,
DHBVN, Hisar.

The CGM/Admn.,
UHBVN, Panchkula.

The CE OP Circle,
UHBVN, Panchkula.

The CE Op Circle,
DHBVN, Hisar.

Memo No. 53 LB-2(2382)Bhiwani 510A

Dated: 08/05.2018

Subject: CR No. 2678 of 2016 titled as DHBVN & Ors V/s Mani Ram & Ors.

Genl. & Adm.	
SE/Admn.	
SE/HR	
P.A.	
Asst. Secy	

7/11
9/5/18

U.S./HR-I

U.S./HR-II

U.S./Gen. ✓

U.S./Legal

XEN/T&M

Supdt./O&I

S.E./Admn. *[Signature]*

1871
10/5/18

Attention is drawn to judgment dated 09/02/2018 passed in subject cited case vide which the Hon'ble High Court decided the case in favour of Nigam. Nigam filed Civil Revision against the interim order dated 14.01.2016 passed by CJ (JD) Charkhi Dadri whereby L'd Court directed that No FIR would be lodged by the department till the decision of Civil Suit as an application filed under section 190 CrPC, 1973 by the applicant/plaintiff against the Nigam.

The relevant extract of judgment dated 09/02/2018 is given here under:-

"After going through the file, I am of the view that the approach of the Civil Judge, who happens to be a comparatively young officer, is wholly illegal. In a civil suit, no power under Section 190 Cr.P.C. can be exercised to pass such order and restrain the department from exercising their lawful right in lodging the FIR in case of theft of electricity and conduct the recovery proceedings. The injunction order could only be passed on an application filed under Order XXXIX Rule 1 and 2 read with Section 151 CPC 1908 after obtaining the reply and on the basis of the

by Supdt./O&I

11/5
A.Y.
Dr. MS. 1086

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11/5/18

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9-5-18

HARYANA VIDYUT PRASARAN NIGAM LTD.

(Govt. of Haryana undertaking)

O/o Legal Remembrancer

Shakti Bhawan, Sector-6, Panchkula

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E-mail: lr@hvpn.gov.in

From

Legal Remembrancer,
HPU, Panchkula

To

✓ The CGM/Admn.,
DHBVN, Hisar.

The CGM/Admn.,
UHBVN, Panchkula.

The CE OP Circle,
UHBVN, Panchkula.

The CE Op Circle,
DHBVN, Hisar.

Memo No. 53 LB-2(2382)Bhiwani 510A

Dated: 09/05/2018

Subject: CR No. 2678 of 2016 titled as DHBVN & Ors V/s Mani Ram & Ors.

CGM & Admn.	7/5/18
SE/Admn.	
SE/HR	
P.A.	
Asst. Secy	

U.S./HR-I

U.S./HR-II

U.S./Gen. ✓

U.S./Legal

XEN/T&M

Supdt./FI

S.E./Admn. 18/11/18

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by
supdt./FI

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A.Y
Sr. No. 1056

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11/5/18

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The impugned order dated 07.01.2016 is patently illegal and is set aside. Keeping in view the circumstances of the case, the suit titled Mani Ram V/s. S.D.O.-cum-Assessing Officer and others, is withdrawn from the Court of Civil Judge (JD) Ch. Dadri and is transferred to the Court of Additional Civil Judge (S.D.) Ch. Dadri or the senior most officer."

It is an important judgment on the issue that in civil suit no power can be exercised under section 190 CRPC by L'd Civil Court to restrain the department from exercising their lawful right in lodging the FIR in case of theft of electricity. Please circulate the same to the officer under your control for dismissal of similar cases by placing reliance on the judgment dated 09/02/2018 passed by Hon'ble High Court it is also requested to direct the concerned authority to host the Judgment dated 09/02/2018 on the website of concerned Power Utility. A complete copy of judgment dated 09/02/2018 is enclosed herewith for ready reference.

This issue with the approval of L.R.

DA/As above

Dingb.
04/05/18
Legal Officer,
HPU, Panchkula.

CC:-

1. The Deputy Secretary/Technical, HVPNL, HPGCL & UHBVN, Panchkula for hosting on website.
2. The Deputy Secretary/Technical, DHBVN, Hisar for hosting on website.
3. The Legal Nodal Officer, UHBVN, Panchkula.
4. The Legal Nodal Officer, DHBVN, Hisar.

CR No. 2678 of 2016 (O&M)

Date of decision: 09.02.2018

Dakshin Haryana Bijli Vitran Nigam and others ...Petitioners

V/s.

Mani Ram and others ...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. Deepak Sabherwal, Advocate for the petitioners.

None for respondent No. 1.

Mr. Mohit, Advocate for
Mr. R.S. Sheoran, Advocate for
respondents No. 2 and 3.

KULDIP SINGH, J. (Oral)

Heard.

The impugned in the present revision is the order dated 07.01.2016 (Annexure P 12) passed by learned Civil Judge (JD), Ch. Dadri in a civil suit titled **Mani Ram V/s. S.D.O.-cum-Assessing Officer and others**, on an application filed under Section 190 Cr.P.C against respondents No. 1 to 3.

A perusal of the file shows that the plaintiff Mani Ram had filed a suit for declaration as a mandatory injunction regarding the dispute of tubewell connection. During the pendency of the suit before the civil Court, an application under Section 190 Cr.P.C. was filed by the plaintiff making some complaint and requesting the Court for taking action against respondents No. 1 to 3 and pass necessary orders. On the said application, the impugned order was passed whereby it was ordered that no FIR will be

51

lodged by the defendants department till the decision of the suit. The department is also restrained from taking any further action in the electricity theft case.

After going through the file, I am of the view that the approach of the Civil Judge, who happens to be a comparatively young officer, is wholly illegal. In a civil suit, no power under Section 190 Cr.P.C. can be exercised to pass such order and restrain the department from exercising their lawful right in lodging the FIR in case of theft of electricity and conduct the recovery proceedings. The injunction order could only be passed on an application filed under Order XXXIX Rule 1 and 2 read with Section 151 CPC 1908 after obtaining the reply and on the basis of the principle governing the grant and refusal of injunction.

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Civil revision is allowed.

(KULDIP SINGH)
JUDGE

09.02.2018
Divyanshi

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