

**HEADING OF A DECISION IN A CIVIL SUIT  
IN THE COURT OF THE CIVIL JUDGE (JR. DIVN.), KHURDA**

PRESENT :-

Sri Abhilash Senapati,LL.B  
Civil Judge (Jr. Divn.), Khurda.

Dated the 17<sup>th</sup> day of September, 2014

**C.S. 74/2011**

1. Jayadeb Patra, aged about 66(fifty )years,  
S/o: Late Ananda Chandra Patra
2. Sabitri Patra, aged about 55 years,  
W/o: Late Prabhash Ch. Patra
3. Satish Chandra patra, aged about 25 years,  
S/o: Late Prabhash Chandra Patra  
All are of Vill: Gobardhanpur, P.O: Kalanga,  
P.S: Bolagarh, Dist: Khordha
4. Gitanjali Patra, aged about 28 years,  
W/o: Jogendra Nayak, Vill: Jagannathaprasad, P.O: Sikrida,  
P.S; Nuagaon, Dist: Nayagarh
5. Gayatri Patra, aged about 28 years,  
W/o: Subrat Jayasingh,  
At: Majhiakhanda, P.O: Bhaliadiha  
P.S: Ranpur, Dist: Nayagarh

..... Plaintiffs.

-Versus-

1. Executive Engineer, Electrical Division, Nayagarh

At/P.O/P.S/Dist: Nayagarh

..... Defendant.

Counsel for Plaintiffs ... Sri T K Baral ,Advocate  
& Associates  
Counsel for Defendants ... None

.....  
Date of Argument – 04.09.2014

Date of Judgment – 17.09.2014  
.....

### **JUDGEMENT**

1. The plaintiff has filed this suit with a prayer for permanent injunction , eviction and mandatory injunction.

2. The plaintiffs' case in short is as follows;

That he is the owner of the suit land situated in Mouza Gobardhanpur under Khata No.109 , plot NO.795 of an area of Ac 0.520 decimal which stands recorded in the name of plaintiff No.1 and husband of plaintiff No.2. The defendant has no manner of right, title, interest or possession over the suit land but he has mischeviously gathered cement electric poles, adjacent to the suit land with a view to construct a 11 K.V line over the suit land. If the electricity poles will not be removed from the suit land the plaintiff will suffer irreparable loss and injury . The cause of action of this suit arose when the defendant gathered materials thereon, including cement pillars over the suit land . They had submitted their written objection to the defendants which was received on 02.06.2011. On 26.06.2011 electricity pillars

were illegally installed over the case land and electricity line over the same was distributed thereafter. Hence the plaintiff has prayed for restraining the defendants permanently to supply electricity line over the suit land and they be directed to remove cement pillars from the said land.

3. The defendants have neither appeared and have hence been made *ex parte* in this suit.

4. In order to prove its case the plaintiff has examined himself as a witness and has exhibited 2 documents which includes the R.O.R of the suit land and the rent receipts . While to disprove the averments of the plaintiff the defendants has neither adduced any evidence nor exhibited any document.

5. P.W.1 has in his evidence corroborated the plaint and has stated that due to such encroachment by the defendants and installation of electric poles over there land they are suffering irreparable loss and injury. Hence this court needs to direct the defendant to remove the electric poles.

6. Coming into the documents adduced by the plaintiff it is seen that Khata No.109 which contains the suit land in plot NO.795 containing an area of Ac 0.520 decimal, is the suit land and is recorded in the name of the plaintiff Jaydev Patra. Ext.2 clearly shows that the plaintiff has been paying the rent over the suit land. It is a common knowledge that whenever any electricity line of the Government is

drawn over any land that the same covers under Indian Telegraph Act. In the present case although the defendant have not appeared but the plaintiff also has not shown any documents as to how come the defendants led electricity line over his land. The plaintiff could have filed document to show that the said lines were to be drawn over other land and were wrongly drawn over his land or the plaintiff can file documents to show that he has not received compensation for laying of electrical pillars. In view of the lack of above document it is quite clear that plaintiff has not been able to show the balance of convenience in his favour. Laying of electric lines by the govt is always done after taking of permission. In this case the plaintiff has not filed any document to show that no permission was taken.

7. In order to get relief for permanent injunction a party needs to prove.

- (i) Prima facie case
- (ii) Balance of convenience
- (iii) Irreparable loss and injury

As discussed above the plaintiff has not been able to show his balance of convenience . Coming into the question of prima facie case it is seen that by filling of the R.O.R and the rent receipts it is quite clear that the plaintiff has a prima facie case. However the plaintiff has failed to show as to how he will suffer if the electric lines are drawn over his land. In fact in absence of the statement of plaintiff with respect to how he would suffer if electric line is drawn over his land, it can also be added that electricity is for the benefit of every public and to make it available to each and every house electricity line are being

drawn. Hence if the present suit could be decreed, public at large of the said area would suffer irreparable loss and injury. Hence in view of the above discussion it is quite clear that the plaintiff has failed to prove his balance of convinence, irreparable loss and injury . Hence ordered.

**ORDER**

The suit be and the same is dismissed on exparte against the defendants but without costs.

**(ABHILASH SENAPATI)**  
**CIVIL JUDGE(JR.DIV), KHURDA.**

Transcribed to my dictation, corrected and signed by me and pronounced in the open court this the 17<sup>th</sup> day of September , 2014.

**(ABHILASH SENAPATI)**  
**CIVIL JUDGE(JR.DIV), KHURDA.**

**List of witnesses examined on behalf of Plaintiff :-**

P.W.1: Jayadeb Patra

**List of witnesses examined on behalf of Defendants. :-**

NIL

**List of documents proved on behalf of the Plaintiff :-**

Ext.1 R.O.R bearing Khata No.109 Plot No.795

Ext.2 Rent receipts.

**List of documents proved on behalf of the Defendants :**

NIL

**(ABHILASH SENAPATI)  
CIVIL JUDGE(JR.DIV), KHURDA.**