

**IN THE COURT OF TINA MALHOTRA, CIVIL JUDGE, COURT
NO. 3, HAMIRPUR, H.P.**

CMA Regd. No. 497-2026 Jaimal Singh v SDO HPSEBL
Lambloo

04.06.2026.

Present: Sh. Subhash Chand Bhatia, Ld. Advocate for
Applicant.

Sh. K.C. Bhatia, Ld. Advocate for Respondent.

ORDER:

This order shall decide an application filed under Order 39 Rules 1 & 2 read with Section 151 of Code of Civil Procedure for restraining the respondent from interfering in the premises/shop of the applicant with the object of installing the smart meter and to disconnect the electricity supply.

2. Succinctly stated the facts of the application- That the applicant is owner in possession of the premises/shop comprised in Khata No. 316 min, Khatauni No. 334 min, Khasra No. 868 area measuring 03K-07M, situated at Mohal Lambloo Mouza Ugialta, Tehsil and District Hamirpur, H.P. It is averred by the applicant that respondent has given notice to the applicant on 17.04.2026 under Section 163(3) of the Electricity Act, 2003, regarding installation of smart meter through which warning qua disconnection of the electricity supply of the applicant's shop has been given if the applicant refuses to install the smart meter. Submitting that the installation is voluntary, it is prayed that the application be allowed and respondent be restrained from disconnecting electricity supply.

3. The respondent contested and resisted the application after taking preliminary objection of maintainability and on merits, denied all the allegations. It is averred that the application has been filed with malafide intention just to harass

the respondent. Submitted that there is a policy of the H.P. Government that the smart energy meter will be installed in the commercial premises throughout Himachal Pradesh and as per Section 55(1) of the Electricity Act, 2003, no electricity shall be supplied except through a correct meter. The licensee and authorized person had visited the shop of the applicant for replacement of old electricity meter with smart electricity meter but applicant has refused to replace the same and thereafter, a notice under Section 163(3) of the Electricity Act, 2003, was served upon the applicant. Hence, prayed that the application be dismissed.

4. This Court has heard the submission advanced by the learned counsel for the respective parties and has perused the material on record.

5. The case of the applicant primarily hinges on installation of smart electricity meter, without his consent, in the premises owned and possessed by him. The respondent has raised a preliminary objection that H.P. State Electricity Board is a necessary party to the application and the application is not maintainable on this account. Since notice under section 163 (3) of 2003 Act has been issued by Assistant Engineer, Sub-division Lambloo, who is rightly made a party to the application, an effective order can be passed in the interim application and it cannot be said that effective adjudication is not possible in absence of H.P. State Electricity Board, at this stage.

6. It is averred that the installation of smart electricity meter is a policy of Himachal Pradesh government and reference is made to section 55 of the Electricity Act submitting that it is mandatory that no electricity shall be supplied except through a correct meter, which, as per the respondent is a smart electricity meter. Though this Court is concerned with the provisions of law and factors such as satisfaction of prima facie

case, balance of convenience and irreparable loss, it is not out of place to specify that the installation of smart energy meter is promoted by the government under power sector reforms and is a scheme of the government for which repeated clarifications have already been made that the installation of such meter is merely voluntary and not mandatory. Without commenting on the merits of the case, where the respondent draws strength from section 55 of the Electricity Act, 2003, a corresponding provision under section 47 (5), makes it evident that the installation of such meter is merely voluntary. It has also been apprised that the electricity meter has been disconnected during pendency of the application and it is argued by the Ld. Counsel for the respondent that since no relief of restoration is preferred by the applicant, the present application is liable to be dismissed. The Court takes note that the applicant prayed for enjoining the respondent from disconnecting the electricity supply, which has been done during pendency of the case. On this particular point, it is appropriate to refer to the provisions of section 151 of the Civil Procedure Code.

7. In **Ram Prakash Agarwal v. Gopi Krishan, (2013) 11 SCC 296**, the scope of section 151 CPC has been discussed in detail:

13. Section 151 CPC is not a substantive provision that confers the right to get any relief of any kind. It is a mere procedural provision which enables a party to have the proceedings of a pending suit conducted in a manner that is consistent with justice and equity. The court can do justice between the parties before it. Similarly, inherent powers cannot be used to re-open settled matters. The inherent powers of the Court must, to that extent, be regarded as abrogated by the legislature. A provision barring the exercise of inherent power need not be express, it may even be

implied. Inherent power cannot be used to restrain the execution of a decree at the instance of one who was not a party to suit. Such power is absolutely essential for securing the ends of justice, and to overcome the failure of justice. The Court under Section 151 CPC may adopt any procedure to do justice, unless the same is expressly prohibited.

8. In **Shivanna & Ors. v. BS Puttamadaiah (dead) through LRs Civil Appeal No. 2928/2014 decided on- 08.11.2023**, an observation has been made pertaining to moulding of relief in ultimate decision of the case and the relevant excerpt is:

11. The submission made by Mr. Sharanagowda Patil, learned counsel appearing for the appellants and Mr. Ashwin V. Kotemath, learned counsel appearing for the respondents are considered. What is important to note here is that the First Appellate Court declared title in favour of the defendant although the defendant never put forth any such claim in the Civil Suit. The suit was filed by the plaintiff seeking declaration and injunction and the Appellate Court after dismissing the suit could not have then issued the declaration of title and possession, in favour of the defendant, particularly when the defendant never claimed any such relief from the Civil Court. It is well-settled in law that the principle of moulding of reliefs could at best be applied as an exception. This Court in *Om Prakash Gupta v. Ranbir B. Goyal*, (2002) 2 SCC 256 laid down the following conditions where the relief could be moulded:

“11. The ordinary rule of civil law is that the rights of the parties stand crystallised on the date of the institution of the suit and, therefore, the decree in a suit should accord with the rights of the parties as they stood at the commencement of the lis. However,

the Court has power to take note of subsequent events and mould the relief accordingly subject to the following conditions being satisfied:

(i) that the relief, as claimed originally has, by reason of subsequent events, become inappropriate or cannot be granted;

(ii) that taking note of such subsequent event or changed circumstances would shorten litigation and enable complete justice being done to the parties; and

(iii) that such subsequent event is brought to the notice of the court promptly and in accordance with the rules of procedural law so that the opposite party is not taken by surprise.”

9. Having discussed law supra, it is settled that this Court can mould the relief on account of subsequent events in exercise of inherent powers under section 151 of the Civil Procedure Code. Being an owner in possession of the suit land, a prime case is made out in favour of the applicant. It is rather the applicant who shall suffer irreparable loss through disconnection of the electricity meter in the shop being run by him at Mohal Lambloo and the respondent cannot resort to intimidatory measures to force the applicant to install the smart energy meter and cut-off the electricity supply by using the provisions of Electricity Act, whereas a corresponding provision supports the voluntary installation of such meters. Promoting a government policy against the mandates of law and terming the smart energy meters as correct meters, is not a right interpretation of legal provision under the Act of 2003. The notice under section 163(3) clearly specifies that installation of the smart meter is a statutory requirement, however, at this

stage, there is prima facie satisfaction that the policy is being rolled out as a voluntary installation.

10. In such a case, to avoid inconvenience to the applicant who shall suffer for want of supply of basic necessity of electricity, this Court hereby directs the respondent, in exercise of inherent powers under section 151 of the Civil Procedure Code, to restore the electricity connection to the premises in ownership and possession of the applicant comprised in Khata No. 316 min, Khatauni No. 334 min, Khasra No. 868 area measuring 03K-07M, situated at Mohal Lambloo Mouza Ugialta, Tehsil and District Hamirpur, H.P., within 10 days of the date of the order, as per the existing meter, till disposal of suit on merits. It is made clear that the observations made here-in-above are strictly for the purpose of disposal of the application and nothing contained therein shall be construed as an expression of opinion on any controversy between the parties on the merits of the suit. Application stands disposed of. After due completion, be tagged with main case file for record.

Announced.

04.06.2026.

(Tina Malhotra)
Civil Judge,
Court No. 3, Hamirpur, H.P.