

**RSA-274-1993 (O&M)****-1-****203**

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**RSA-274-1993 (O&M)  
Reserved on: 19.08.2025  
Pronounced on: 25.08.2025**

Raj Kumar Gupta (now deceased) through his LRs .....Appellant

**VERSUS**

Punjab State Electricity Board and Another .....Respondents

**CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU**

Present: Mr. Puneet Kumar Bansal, Advocate for the appellant.

Respondents No.1 & 2- ex-parte.

**MANDEEP PANNU, J**

1. This Regular Second Appeal has been preferred by the appellant/plaintiff Raj Kumar Gupta to set aside the judgment and decree dated 16.12.1992 passed by the learned Additional District Judge, Firozpur, whereby the appeal was accepted, the judgment and decree dated 24.08.1991 of the trial Court were set aside, and the suit of the plaintiff was dismissed while permitting him to pay the disputed amount in four monthly instalments.

**Brief Facts**

2. The plaintiff filed a suit for permanent injunction restraining the defendants from recovering an amount of ₹76,278/- as per memo number 1819/RA-3 dated 07.09.1988 in respect of electricity connection number 14-928, and for a mandatory injunction to restore the supply. He averred that he was running a guest house at Bungalow No. 121, Church Road, Firozpur Cantt.

Defendant No. 1-Punjab State Electricity Board (hereinafter referred to as, 'PSEB)

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sanctioned connection number 14-928 in his name. The bills were regularly received and paid. The last bill for ₹1,628/- was paid on 16.08.1988. The officials of the Board periodically checked the installation and seals and found them to be in order, including during inspection on 23.08.1988. However, on 07.09.1988, the officials of the Board accompanied by police disconnected the supply and, under threat, procured certain writings and his signatures. The plaintiff pleaded that disconnection without giving seven days' notice was contrary to Section 24 of the Indian Electricity Act, 1910 and that the impugned memo claiming ₹76,278/- was illegal, arbitrary and unsupported by particulars.

3. The defendants filed a written statement admitting that the connection stood in the name of the plaintiff but denying that their routine checks established the seals as genuine. They pleaded that the Sub Divisional Officer does not possess the specimen of M&T seals which are kept confidential in the laboratory and with the flying squad. The Assistant Executive Engineer of the flying squad inspected the meter on 06.09.1988 and found the M&T seals to be fake. He recorded this finding in the enforcement checking register, removed the meter along with the fake seals, broke the seals, and packed the meter in a cardboard box. The defendants alleged that there was dishonest abstraction of energy by opening the meter cover and reversing the meter. It was further pleaded that the plaintiff executed an undertaking admitting that he was a first-time offender, agreed to pay the amount assessed, and undertook not to approach the civil court. The amount was calculated by taking 2244 units monthly as per PSEB instructions and demand of ₹76,278 was raised with intimation to the police. It was asserted that no prior notice was required where theft was detected and that supply would only be restored upon full payment.

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4. The trial Court framed the following issues:-
1. Whether the plaintiff is entitled to the injunction as prayed for?  
OPP
  2. Whether the suit is not maintainable? OPD
  - 2-A Whether the plaintiff committed theft of energy in the manner mentioned in the written statement? OPD
  3. Relief.
5. The parties led their respective evidence.

**Findings of the Trial Court**

6. On appreciation of evidence, the trial Court held that the defendants had failed to prove that the plaintiff was found committing theft of electrical energy. Accordingly, the trial Court decreed the suit, restraining the defendants from recovering ₹76,278 under memo No.1819/RA-3, dated 07.09.1988 in respect of connection electric number 14-928, and granted mandatory injunction directing restoration of supply.

**Findings of the First Appellate Court**

7. On appeal by the defendants, the learned Additional District Judge, Firozpur, allowed the appeal, set aside the decree of the trial Court and dismissed the suit. The plaintiff, however, was permitted to pay the disputed amount in four equal monthly instalments, with liberty to the Board to disconnect the supply on default.

**Submissions of Counsel for the appellant**

8. Learned counsel for the appellant/plaintiff contended that the matter was never sent to the Meter Examination Laboratory for verification, which was an essential step in proving theft. The defendants themselves admitted that the seals

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were checked about fifteen days earlier and were found in order. No rule was produced to prove that the SDO could not check the seals. It was further argued that the alleged detection by the flying squad was based only on visual inspection, which is unreliable without laboratory verification. The alleged undertaking of the plaintiff was stated to have been procured under coercion and therefore had no binding effect. It was further argued that the lower appellate court wrongly shifted the onus of Issue No. 2A onto the plaintiff, whereas the burden to prove theft of energy lay squarely on the defendants.

9. Despite service, none appeared on behalf of the respondents/defendants to contest the present appeal.

**Findings**

10. I have heard learned counsel for the appellant/plaintiff and carefully examined the record.

11. Allegations of theft of energy are quasi-criminal in nature and must be strictly proved by the party who asserts them. The burden to prove Issue No. 2A, i.e “Whether the plaintiff committed theft of energy in the manner mentioned in the written statement?”, was upon the defendants.

12. The respondents/defendants have not led sufficient evidence to prove the allegations of theft. The case of the respondents/defendants is that the M&T seals affixed to the meter were fake and that the meter was tampered with to reverse the readings. In such circumstances, the best evidence was the meter itself with the seals, examined and reported upon by the authorised Meter Examination Laboratory. However, the respondents/defendants did not prove that the meter and seals were sealed, preserved and sent to the laboratory. No laboratory report was exhibited and no competent witness from the laboratory was examined. The plea

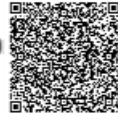


that the flying squad made field detection by naked eye cannot replace forensic verification, particularly when the Board itself claims exclusive custody of the confidential seal specimens.

13. Further, the respondents/defendants have not produced the enforcement checking register or proved it through its author. This omission further weakens their defence.

14. The respondents/defendants also relied upon the alleged undertaking said to have been obtained from the plaintiff at the time of disconnection. Even if such an undertaking was executed, as per the case of the defendants themselves, it was only for the purpose of compounding the alleged offence and agreeing to pay the assessed amount in order to avoid disconnection. In a civil suit, such an undertaking cannot absolve the defendants of their duty to prove the allegations of theft. The lower appellate court's approach in shifting the burden onto the plaintiff to prove that he did not steal energy is contrary to settled principles of law.

15. It is well settled that allegations of theft of electricity cannot be inferred from suspicion or presumption alone. The respondents/defendants were bound to establish such allegations by clear, cogent and convincing evidence. In the absence of any laboratory test, documentary proof or testimony of a competent technical witness, the mere ipse dixit of the inspecting squad is insufficient to hold that the plaintiff committed theft of energy. The trial Court was correct in holding that the defendants had failed to discharge their burden. On the other hand, findings of the learned lower Appellate Court that the plaintiff committed theft of electricity, are without any basis.

**RSA-274-1993 (O&M)****-6-****Conclusion**

16. In view of the foregoing discussion, this Court is of the considered opinion that the findings of the lower appellate court are unsustainable. The trial Court had rightly decreed the suit by holding that the defendants failed to establish theft of electrical energy. Consequently, the judgment and decree dated 16.12.1992 passed by the learned Additional District Judge, Firozpur, is hereby set aside, and the decree of the trial Court dated 24.08.1991 is upheld. The appeal is accordingly allowed.

17. Pending application(s), if any, also stand disposed of.

August 25, 2025  
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**(MANDEEP PANNU)**  
**JUDGE**

Whether speaking/non-speaking : Speaking  
Whether reportable : Yes/No