



RSA-1383-2022 (O&M)

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

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RSA-1383-2022 (O&M)

Date of decision: 21.07.2026

Balkar Singh

....Appellant

Vs.

Punjab State Power Corporation Limited and another

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Munish Puri, Advocate
for the appellant.

HARSH BUNGER J. (Oral)

CM-4314-C-2022:

Present application is filed seeking condonation of delay of 48 days in re-filing the regular second appeal i.e. RSA-1383-2022.

For the reasons mentioned in the application, delay of 48 days in re-filing the regular second appeal i.e. RSA-1383-2022 is condoned.

Application is accordingly disposed of.

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1. For convenience, the parties herein are being addressed as per their status in the original suit.
2. This is the plaintiff's regular second appeal challenging the judgment and decree dated 09.07.2018 passed by learned Civil Judge (Junior Division), Gurdaspur, whereby suit for declaration filed by the plaintiff was dismissed.



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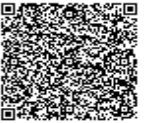
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2.1 A further challenge has been made to the judgment and decree dated 19.12.2019 passed by learned Additional District Judge, Gurdaspur, whereby an appeal filed by the plaintiff against the learned Trial Court judgment and decree dated 09.07.2018 has been dismissed.

3. Briefly, the appellant/plaintiff filed a suit for declaration to the effect that the notice dated 24.09.2014 issued to him by Punjab State Power Corporation Limited (in short “PSPCL”), raising demand of Rs.1,40,129/- was illegal, null and void. Another prayer for grant of permanent injunction was also made.

3.1 The pleaded case of the plaintiff was that he has lodged one case FIR No.84 dated 22.04.2009 under Sections 323, 324, 506, 341 IPC and Sections 25, 54, 59 Arms Act at Police Station Sadar Pathankot against Malkiat Singh @ Ladda, Kuldeep Singh, Gurdial Singh and Jagir Singh, all residents of village Baghial, who were convicted.

3.2 Plaintiff averred that the said accused were closely related to one Sub-Divisional Officer (SDO) of defendant No.1-PSPCL. It was further averred that, due to the close relation, the aforesaid convicted persons moved a false and frivolous complaint against the plaintiff and got registered a false case of theft of electricity. It was also pleaded that a false and frivolous notice dated 24.09.2014 was issued, wherein a demand of Rs.1,40,129/- was raised against the plaintiff. Plaintiff further asserted that he had neither installed electricity meter nor used electricity in any manner and that he used a diesel generator, as and when he required electricity.



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3.3 It was pleaded that the employees of PSPCL never visited the site nor caught the plaintiff while committing theft of electricity.

3.4 With the aforesaid pleas, the suit for declaration was filed by the plaintiff.

4. Upon issuance of notice, the defendants in the suit contested the claim of the plaintiff by filing their written statement, wherein it was categorically stated that on 23.09.2014, Er. Kulwinder Singh, XEN, Enforcement, Batala along with his staff and the area J.E. Balbir Singh inspected the Haveli of the plaintiff vide LCR No.2152 and it was found that no electricity meter had been installed therein and that the plaintiff was taking electricity from the LT Lines, passing nearby the Haveli of the plaintiff by using direct wires . The running direct load was stated as 3.464 KW. The wires used by the plaintiff for taking direct supply were retained by the defendants and a checking report dated 23.09.2014 was prepared at the spot, copy of which was also supplied to the plaintiff. Thereafter, the defendants issued a notice dated 24.09.2014 under Section 135 of the Electricity Act for recovery of Rs.1,40,129/- as theft charges along with the calculation. Even the intimation was sent to the police station for registration of FIR against the plaintiff vide memo No.1588 dated 24.09.2014. With the aforesaid stand, prayer for dismissal of suit was made.

5. From the pleading of the parties, following issues were framed by the learned Trial Court:-

“1. Whether plaintiff is entitled for declaration as prayed for?

OPP



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2. *Whether plaintiff is entitled for permanent injunction as prayed for? OPP*
3. *Whether the suit of the plaintiff is not maintainable ? OPD*
4. *Whether plaintiff has not come to the Court with clean hands and concealed the material facts? OPD*
5. *Whether the suit of the plaintiff is bad for mis-joinder and non-joinder of necessary parties? OPD*
6. *Whether the plaintiff has got no cause of action to file the present suit? OPD*
7. *Relief.”*

6. Thereafter, the parties led their respective evidence on the aforesaid issues.

7. The learned Trial Court after considering the facts, pleadings as well as evidence available on record, dismissed the suit filed by the plaintiff/appellant vide judgment and decree dated 09.07.2018, *inter alia*, on the ground that the suit was barred under Section 145 of the Electricity Act.

8. Feeling aggrieved, the plaintiff filed an appeal before the learned Additional District Judge, Gurdaspur, which has also been dismissed vide judgment and decree dated 19.12.2019.

9. In the aforementioned circumstances, present regular second appeal has been filed.

10. I have heard the learned counsel for the appellant and perused the paperbook with his able assistance.

11. Evidently, the suit for declaration filed by the appellant, challenging the demand notice dated 24.09.2014 for recovery of Rs.1,40,129/- as theft recovery charges, was dismissed by the learned Trial Court vide order dated 09.07.2018. Even an appeal filed by the plaintiff,

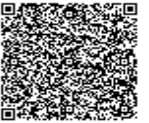


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against the abovesaid order, has been dismissed by the learned First Appellate Court vide judgment and decree dated 19.12.2019, by holding as under:-

“15. As per the version of appellant, the alleged checking at his premises was got conducted by Malkiat Singh etc. against whom he had got registered FIR No.84 dated 22/04/2009 under Sections 323, 324, 506, 341 IPC and under section 25 of Arms Act at Police Station Sadar Pathankot. The appellant has also alleged that above Malkiat Singh etc. were having relations with SDO of respondents. The appellant has not led any evidence to establish above pleas. No evidence of any relation of the officials of respondents with above said Malkiat Singh etc. is adduced by the appellant. On the other hand, the respondents have duly proved that Executive Engineer, Enforcement, Batala, Er.Kulwinder Singh alongwith J.E. Balbir Singh etc. conducted a raid on the haveli of appellant on 23/09/2014 and it was found that the appellant was taking direct supply of electricity by putting direct wire from the LT lines and he was running direct load of 3.464 KV. Thereafter, notice Ex.P-1 was issued to the appellant and an intimation to the Anti Power theft Police Station, Verka, for registration of FIR against appellant was sent through memo No.1588 dated 24/09/2014. In order to establish his case, the appellant has stepped into the witness box as PW-1 and he also examined PW-2 Satnam Singh. Above PW Satnam Singh admitted in his cross-examination that he has not read the plaint of the plaintiff and he has come to the court on the asking of the plaintiff. No other witness was examined by appellant in support of his suit. In these circumstances, this court is of the opinion that the appellant has failed to establish that the notice was issued to him by respondents in connivance with Malkiat Singh etc.. The



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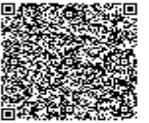
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Judgment cited by learned counsel for appellant 'Ram Chander Prasad Sharma Vs State of Bihar and another (Supra)' is not applicable to the facts of the present case because the law in the above Judgment was laid with respect to a criminal case whereas the matter involved in this case is civil in nature, so, the findings recorded in the above said Judgment are not applicable to this controversy.

16. *Further, as the matter is covered by section 145 of the Electricity Act, so, civil court was not having any jurisdiction to decide the controversy involved in this matter. The appellant has not given complete facts in his plaint. He has not even mentioned the name of SDO who was allegedly used by Malkiat Singh etc. to plant a false case of theft of electricity upon him, so, the appellant has not come to the court with clean hands. Similarly, he has not arrayed above SDO by name in the suit, so, his suit was also bad for non-joinder of necessary party.*

17. *In view of above discussions, this court is of the considered opinion that learned trial court has rightly dismissed the suit of the appellant, so the findings of learned trial court on all the issues are hereby upheld. Finding no merit in the present appeal, same is hereby dismissed with costs. Decree sheet be prepared accordingly. Lower Court record be returned alongwith copy of this judgment. Appeal file be consigned to the record room.”*

11.1 A perusal of the aforesaid findings returned by the learned First Appellate Court would show that the suit filed by the appellant/plaintiff has been dismissed not only on the ground that he had failed to prove his pleaded case, but also on the ground that in terms of Section 145 of the Electricity Act, the learned Civil Court has no jurisdiction to decide the controversy involved in the matter.



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12. In the present regular second appeal, on 03.02.2026, the Co-ordinate Bench has passed the following order:-

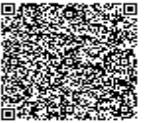
*“Learned Counsel for appellant seeks time to go through the Division Bench judgment dated 14.05.2025 of this Court, titled as **“Mahesh Kumar Versus Sub Divisional and Anr.”**, reported in 2025 SCC Online P&H 2540.*

On request, posted for 14.05.2026.”

13. Today, learned counsel appearing for the appellant submits that the above-referred judgment in the case of **Mahesh Kumar (supra)** was considered by a Co-ordinate Bench of this Court in RSA-1952-2024 (decided on 27.10.2025), wherein the following observations have been made:-

“22. In view of above, this Court finds that the Division Bench having relied upon powers conferred by Section 154 to hold that the jurisdiction of Civil Court, is barred in the case of theft of energy, the ratio can be relied upon by the supplier only in the cases wherein compliance has been made to the provisions of Section 135. Which means that only when a complaint has been lodged by the competent officer/authority regarding theft of energy and the Special Court has taken cognizance of the offence pursuant to filing of such complaint or filing of police report as per Section 151 of 2003 Act, the jurisdiction can be said to be barred invoking Section 154 of the Act of 2003.

23. In the absence of there being any complaint filed before the Special Court or FIR registered by the police authorities, the allegations of theft of energy, cannot assume the status of offence. In all those cases, where there is no FIR registered by the police authorities and/or complaint filed by the competent authorities before the Special Courts, the consumer is well



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within his right to approach the Civil Court alleging violation of the law and procedure prescribed therein.....”

14. While referring to the above-extracted observations made in RSA-1952-2024, learned counsel appearing for the appellant submits that the learned Civil Court jurisdiction has been barred only in those cases where compliance has been made to the provisions of Section 145, which means that only when a complaint has been lodged by the competent authority/officer regarding theft of energy and the learned Special Court has taken cognizance of the offence pursuant to filing of such complaint or filing of police report as per Section 151 of 2003 Act, then the jurisdiction of the learned Civil Court can be said to be barred by invoking Section 154 of the Electricity Act; otherwise the consumer is well within its right to approach the learned Civil Court alleging violation of law and procedure prescribed therein.

15. Keeping in view the aforesaid stand taken by the learned counsel for the appellant, his attention was drawn to para No.3 of the learned Trial Court judgment dated 09.07.2018, wherein it was clearly mentioned that the impugned notice dated 24.09.2014 had been issued under Section 135 of the Electricity Act for recovery of Rs.1,40,129/- as theft charges and even a memo No.1588 dated 24.09.2014 had been sent to the police station for registration of FIR against the plaintiff.

16. In this regard, a specific query was raised to the learned counsel for the appellant, as to whether any FIR has been registered against the appellant. In response to the aforesaid query, learned counsel for the appellant very fairly submitted that although he does not have the details of



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the FIR, however, some criminal proceedings are pending against the appellant.

17. Keeping in view, the aforesaid submission made by learned counsel appearing for the appellant, since criminal proceedings have already been initiated against the appellant, therefore, going by the observations made by the Co-ordinate Bench in order dated 27.10.2025 passed in RSA-1952-2025, I see no error in the findings returned by learned Courts below that the jurisdiction of Civil Court was barred under Section 145 of the Electricity Act.

17.1 That apart, learned counsel for the appellant has failed to show that the findings returned by learned Courts below are either illegal or perverse or based upon any mis-reading or mis-appreciation of any material evidence on record.

18. In view of the above, no question of law, much less substantial question of law arises for adjudication in this regular second appeal. Resultantly, the instant regular second appeal fails and the same is accordingly ***dismissed***.

19. All the pending application(s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

21.07.2026
Ankit

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