

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

**RSA No. 4503 of 2010 (O&M)
Date of Decision: -31.8.2015**

Brahm Dutt

.....Appellant

versus

Punjab State Electricity Board & ors

.....Respondents

CORAM: - HON'BLE MR. JUSTICE ARUN PALLI

Present: - Mr. D.K.Bhatti, Advocate for the appellant.

Mr. Y.P.Khullar, Advocate for the respondents.

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Arun Palli, J (oral)

Suit filed by the plaintiff was dismissed by the learned trial Court vide judgment and decree dated 28.7.2009. Appeal preferred against the said decree failed and was dismissed on 27.7.2010. This is how, plaintiff is before this Court in this regular second appeal. Parties to the lis, hereinafter, would be referred to by their original positions in the suit.

In a suit filed by the plaintiff, he prayed for a declaration that the order No. 646 dated 2.11.2004 passed by the defendant No.2 vide which an amount of Rs.52,838/-, awarded in case i.e. Surinder Kumar (O.C) vs. Punjab State Electricity Board, decided by the Commissioner under the Workmen Compensation Act, 1923, was sought to be recovered from the plaintiff, was illegal and void. And also for injunction restraining the defendants from causing any recovery.

I have heard learned counsel for the parties and perused the paper book.

Concededly, the order that was indeed assailed by the plaintiff was dated 2.11.2004. An analysis of the said order dated 2.11.2004 (Ex. D-7) shows that an amount of Rs 52,838/- was not sought to be recovered thereby, and vide said order merely a permission was granted by the Chief Engineer (Distribution), North, Jalandhar to the office to recover the said amount from the plaintiff. As a consequence, notices were served upon the plaintiff on 13.9.2005 i.e. Exhibits P-1 and P-2, which were duly replied to by the plaintiff on 16.12.2005 (Ex. P-3). And only thereafter, and on consideration of the matter in issue, competent authority had passed an order dated 30.11.2006, vide which the amount in question was sought to be recovered from the plaintiff. However, the said order was not ever assailed by the plaintiff. In fact, the said order was passed during the pendency of the suit and plaintiff did not amend his suit to assail the order. That being so, the Courts below had concurrently recorded that the order dated 2.11.2004 (Ex. D-7) was indeed not an order of recovery and was only a permission granted by the Board-respondent to recover the amount. And the order vide which the amount was actually sought to be recovered was never challenged and was passed after seeking reply of the plaintiff.

Learned counsel for the appellant could not point out as to how the conclusions that have concurrently been arrived at by the Courts below were either contrary to the position on record or suffer from any material illegality.

In the wake of the position, as sketched out above, and the conclusions that have concurrently been recorded by both the courts below, there hardly exists any ground, least plausible in law, to interfere with the decree being assailed in the present appeal. No question of law, much less any substantial question of law, arises for consideration. Appeal being devoid of merit is accordingly, dismissed.

(Arun Palli)
Judge

31.8.2015
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