

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Regular Second Appeal No.1937 of 2015 (O & M)

Date of Decision: *December 17, 2015*

Arvinder Singh

..... APPELLANT

VERSUS

The Punjab State Electricity Board & others

..... RESPONDENTS

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CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

. . .

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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PRESENT: - Mr. P.P.S. Duggall, Advocate, for the appellant.

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Jaspal Singh, J

CM No.5137-C of 2015

For reasons mentioned in the application, delay of 4 days in refiling the appeal is condoned.

Application stands allowed.

RSA No.1937 of 2015

1. The instant appeal has been preferred by plaintiff – Arvinder Singh, challenging judgment and decree dated August 07, 2012 passed by the trial court as well as judgment & decree dated October 01, 2014 passed by the lower appellate court whereby the findings recorded by the trial court have been upheld and appeal filed by the plaintiff against the

judgment & decree passed by the trial court has been dismissed. Accordingly, the suit filed by plaintiff has been dismissed, for declaration to the effect that checking of report bearing No.16/70 dated August 25, 2006 is wrong, illegal, null and void and is liable to be set aside and notice dated April 24, 2008, bearing No.911 issued by defendant No.2 to the plaintiff is liable to be withdrawn/set aside and plaintiff is liable to pay an amount as per notice in question with consequential relief of injunction restraining the defendants from disconnecting the electric connection bearing No.BB-45/0351 running in the premises of Guru Gobind Singh Hospital, Muktsar Road, Guruhar Sahai, Tehsil Jalalabad.

2. While assailing the findings returned by the trial court, especially on Issue No.1 as well as impugned judgments & decrees passed by the lower court and affirmed by the lower appellate court, it has been ebulliently argued by learned counsel for the appellants that same are against the evidence available on file and settled canons of law. Mis-appreciation of evidence adduced by the plaintiff has resulted into mis-carriage of justice. Learned counsel has contended that it is an undisputed fact that appellant – plaintiff is a consumer and three electric connections stand installed in his premises. However, both the courts below have not taken into consideration the evidence brought on record by appellant – plaintiff in its right perspective and have ignored cogent and trustworthy evidence. Infact, neither X-Ray Machine was working in the hospital premises nor autoclave and the electric motors were being run at the spot. The respondents – defendants have also failed to prove the checking report. Only Er. Jagjit Singh Bhatti (DW-2) has been examined whereas none other member of the raiding party was opted to have been examined by the plaintiff. The respondents – defendants have illegally imposed the penalty and there was

no excess load even at the time of alleged checking. It was due to the reason best known to Er. Jagjit Singh, the penalty has been imposed by showing the wrong report.

3. This court has given an anxious thought to the aforesaid submissions made by learned counsel for the appellant but does not find any merit in the same.

4. As far as checking of the premises in question is concerned, it has been categorically admitted by Gurdeep Singh (PW-1) during his cross examination. It is a specific stand of the respondents – defendants that during checking, the running of X-Ray Machines, Autoclave, window AC, Two Water Motors, Power plug lamp were detected. The appellant – plaintiff has not denied the installation of X-Ray Machines as well as Autoclave in the premises of the hospital. The defendants have also placed on the record the checking report Ex.D1 which depicts excess load than that of sanctioned one. It was only due to this, legal notice Ex.D2 was issued calling upon the appellant – plaintiff to make the payment. The matter did not end here. Even the plaintiff approached the Dispute Settlement Committee of PSPCL as is evident from Ex.D3, a decision delivered by it. A perusal of the aforesaid documents makes it evident that respondents – defendants conducted the checking during which the appellant – plaintiff was found using the excess load. Even the Dispute Settlement Committee has also given some concession to the appellant – plaintiff by way of reducing the penalty imposed upon him. The plea taken by learned counsel for the plaintiff that neither X-Ray machines nor autoclave were being run in the hospital premises, appeal to the reason. If the same were not in working condition for the last 7/8 years as has been alleged by the appellant –

plaintiff, then what was the need to deny the installation thereof in the hospital premises.

5. As far as non examination of other members of the raiding party except Er. Jagjir Singh Bhatti is concerned, the same also do not carry any legal weight. It is well settled that the court has to take into consideration the quality of the evidence and not the quantity of the witnesses as has also been laid down under Section 134 of the Indian Evidence Act. After all the various documents placed on record by the defendants i.e. Ex.D1 to D5 which have been duly proved on record by way of testimony of Guruhar Sahai (DW-1), from which it is clear that Er. Jagjit Singh Bhatti coupled by some other officials of PSPCL conducted checking of the premises of the hospital belonging to appellant – plaintiff when the excess load was detected. Moreover, there are concurrent findings recorded by both the courts below in this regard which do not call for interference by this Court. Since no question of law much less substantial question of law could be pointed out by learned counsel for the appellant during the course of arguments, this Court does not find any merit in the instant appeal.

6. In the light of what has been discussed above, there is no infirmity, illegality and impropriety in the findings returned by the courts below. Consequently, impugned judgments & decrees passed by both the courts are upheld. Accordingly, the appeal is dismissed. However, the parties are left to bear their own costs.

December 17, 2015
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(Jaspal Singh)
Judge