

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

RSA No.503 of 2015 (O&M)

Date of decision: 9th February, 2015

Jagdish Khatter

... Appellant

Versus

Uttri Haryana Bijli Vitran Nigam Limited and another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

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

Present: Mr. Narayan Prasad Gupta, Advocate
for the appellant.

FATEH DEEP SINGH, J.

It is consequent upon repeated dismissal of the case of plaintiff/appellant Smt.Jagdish Khatter, firstly through judgment and decree dated 18.04.2013 of the Court of learned Additional Civil Judge (Senior Division), Narwana followed by the findings of the first appellate Court of learned District Judge, Jind through judgment and decree dated 03.12.2014, the unsuccessful plaintiff has happened to be before this Court in the instant regular second appeal.

Heard Mr. Narayan Prasad Gupta, Advocate representing the plaintiff/appellant.

It is own case of the plaintiff that she was consuming electricity through electricity connection No.LL-11/0540 HQ installed in her name at her residential house in Narwana. It is alleged that the defendants Uttri Haryana Bijli Vitran Nigam Limited (for short 'UHBVNL') issued a bill for the month of April 2011 wherein demand of ₹3,427 and ₹53,646 has been made and thus, sought an injunction from recovery of this amount. It is stand of the defendants that on 27.07.2009 a team of the defendants checked the meter at the premises of the plaintiff and found two M&P seals broken besides there being a connected load of 3,240 kilowatt much more than the sanctioned load of 2.00 kilowatt. It is the defendants' stand that a notice dated 28.03.2011 and a memo No.3073 dated 24.03.2011 were issued to the plaintiff and after due intimation the meter which was kept in a sealed intact condition was sent for checking to M&P Laboratory, Kaithal and which found tampering with the meter and hence memo No.3158 dated 31.03.2011 levying penalty of ₹37,646 was issued followed by memo No.3159 dated 31.03.2011 for depositing compounding fee of ₹16,000 and through memo No.3165 dated 31.03.2011 criminal complaint was made under The Electricity Act, 2003 (for short, 'the Act').

The two courts below have appreciated the fact that it was a clear cut case of tampering with the electricity meter owned by the defendant-licensee as provided under Section 138 of the Act and therefore, in terms of Section 126 of the Act had issued provisional assessment by the Assessing Officer and instead of challenging these

in terms of Section 127 the plaintiff-consumer has knocked at the doors of the Court when under provisions of Section 145 of the Act no Civil Court has any jurisdiction to entertain any suit or proceedings in respect of such a matter in which an Assessing Officer detailed in Section 126 of the Act or the Appellate Authority as provided under Section 127 of the Act, had adjudicated the matter.

The evidence that has come up through DW1 Vikram Chauhan JE and on the basis of documents Checking Report Ex.D2 and Notice Ex.D3, the conclusions drawn by the courts below appear to be correct appreciation of the evidence and in the light of consistent findings of the courts below does not call for any interference.

The appeal being devoid of any merit stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

February 9, 2015
rps