

**IN THE HIGH COURT OF JUDICATURE FOR THE STATES OF
PUNJAB AND HARYANA, AT CHANDIGARH**

**Regular Second Appeal No. 281 of 2014(O&M)
Date of Decision: January 06, 2015**

Sunita Mandal

....Appellant

Versus

Punjab State Power Corporation Ltd. & Ors. ...Respondents

CORAM: HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN.

Present: Ms. Sonal Datta, Advocate for the appellant

1. *Whether Reporters of local papers may be allowed to see the judgment? **Yes/No***
2. *To be referred to the Reporter or not? **Yes/No***
3. *Whether the judgment should be reported in the Digest? **Yes/No***

Mahavir S. Chauhan, J (ORAL):

Unsuccessful plaintiff (here-in-after referred to as 'the appellant') is in regular second appeal against judgment/decreed dated July 08, 2013 whereby learned Additional District Judge, Ludhiana (here-in-after referred to as 'the first appellate court') has dismissed her appeal and has affirmed the findings recorded by learned Civil Judge (Junior Division), Ludhiana (here-in-after referred to as 'the trial court') vide judgment/decreed dated November 22, 2006 dismissing her suit which was brought by her to seek a decree of perpetual prohibitory injunction to restrain the defendants (here-in-after referred to as 'the respondents') from recovering from her an amount of Rs. 53186/- as electricity consumption charges, vide bill dated February 03, 1997.

02. Appellant's case before the learned trial court was that a dispute raised by her in respect of a bill received by her as a result of inspection of load of electricity pertaining to her business premises was referred to

Disputes Settlement Committee and, to avoid unnecessary harassment, she had requested the respondents to disconnect the electricity connection of her premises, which was though disconnected on January 03, 1996 but inspite of this the respondents, vide bill dated February 03, 1997, demanded from her an amount of Rs. 53186/-.

03. Respondents contested appellant's claim by pleading that the dispute raised by the appellant in respect of a bill issued to her on the basis of an inspection report wherein appellant was said to have connected electricity load to the extent of 28.612 Kilowatts as against sanctioned load of 18.4 Kilowatts. The dispute of plaintiff was settled by Disputes Settlement Committee by ordering refund of Rs.10845/- but she did not raise any dispute with regard to the electricity bill for the period from January 1996 to February 1997 amounting to Rs. 53186/- and the amount due from the appellant has risen to Rs. 61124/- upto April 1997. While denying disconnection of appellant's electricity connection on January 03, 1996, respondents also raised certain preliminary objections.

04. After a replication had been filed by the appellant, learned trial court, from the pleadings of the parties, framed following issues:

01. Whether the disputed demand of Rs. 53086/- raised by the defendants is illegal, null and void? OPP

02. If issue No. 1 is proved, whether the plaintiff is entitled for the injunction prayed for? OPP

03. Whether the suit is not maintainable in the present form? OPD

04. Whether jurisdiction of the Civil Court is barred? OPD

05. Relief.

05. Both the sides adduced evidence to substantiate their respective pleas.

06. Learned trial court, after hearing the parties and on appraisal of the evidence available on record, returned findings on all the issues hostile to the appellant and vide judgment/decreed dated November 22, 2006 dismissed her suit, with no order as to costs.

07. Appellant assailed judgment/decreed dated November 22, 2006 by way of Civil Appeal No. 04 of January 22, 2007 which, after contest, has also been dismissed by the learned first appellate court vide judgment/decreed dated July 08, 2013, with no order as to costs.

08. I have heard learned counsel for the appellant.

09. Learned counsel for the appellant very ably argues that entire case of the respondents is based on Exhibit D1, report of inspection carried out on October 18, 1994. However, original of this report has not been produced on record and production of its copy was objected to by the appellant. But the learned courts below have committed an error of law in relying upon this document by overlooking the defect in its proof. According to the learned counsel evidence brought on record by the appellant clearly establishes that electricity connection to the premises of the appellant stood disconnected. Therefore, the bill in question is clearly illegal as the appellant did not use electricity after disconnection of electricity connection of her premises on January 03, 1996.

10. Nothing more has been urged.

11. Appellant has not adduced any evidence to substantiate her plea that the electricity connection to her premises was disconnected on January 03, 1996 and that she did not use electricity after that day. Be that as it may, the appellant has chosen not to seek a declaration qua the bill in question and so long as the bill in question is in existence appellant cannot escape her liability to pay the amount thereby demanded. In the absence of a challenge to the bill, learned courts below have rightly refused to issue an injunction against recovery of that amount. Checking report, Exhibit D1, is not shown to have any bearing on the bill in question.

12. In view of the above, the appeal is found to lack in merit and not to involve any question of law, much less a substantial question of law, and, as such, is dismissed.

[Mahavir S. Chauhan]
Judge

January 06, 2015
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