

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.3458 of 2014 (O&M)
Date of Decision: July 07, 2015

Punjab State Electricity Board and others

...Appellants

Versus

Dayanand Medical College and Hospital Managing Society

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Parminder Singh-I, Advocate
 for the appellants.

INDERJIT SINGH, J.

Appellants-defendants Punjab State Electricity Board (PSEB) and others have filed this regular second appeal against respondent-plaintiff Dayanand Medical College and Hospital Managing Society, challenging the impugned judgment and decree dated 15.11.2013 passed by learned Addl. District Judge, Ludhiana, vide which the appeal filed by the plaintiff was accepted and the judgment and decree dated 27.07.2012 passed by learned Civil Judge (Junior Division) Ludhiana, dismissing the suit of the plaintiff, were set aside.

The brief facts of the case are that plaintiff-respondent Dayanand Medical College and Hospital Managing Society filed a suit against defendants-appellants Punjab State Electricity Board and others for declaration to the effect that demand of sum of ₹6,67,187/-

raised by defendant No.4-Assistant Executive Engineer (Commercial) after adjusting the sum of ₹3,12,500/- deposited by the plaintiff, is illegal, capricious, against the rules, discriminatory as the rejection of claim of the plaintiff by the Disputes Settlement Authority, PSEB vide order dated 06.10.2004 is also illegal, contrary to rule and liable to be quashed and for permanent injunction restraining the defendants from recovering said amount from the plaintiff by illegally and forcibly disconnecting the electric connection and also suit for mandatory injunction.

Learned Civil Judge (Junior Division) Ludhiana, after giving notice to the respondents, framed issues and on the basis of the evidence led by the parties, dismissed the suit of the plaintiff vide judgment and decree dated 27.07.2012. Aggrieved from the above-said judgment and decree, plaintiff filed an appeal before learned District Judge, Ludhiana and learned Addl. District Judge, Ludhiana, to whom it was assigned, vide judgment and decree dated 15.11.2013, accepted the appeal and set aside the findings given by learned Civil Judge, Ludhiana.

Aggrieved from the judgment and decree dated 15.11.2013 passed by learned Addl. District Judge, Ludhiana, present appeal has been filed by the defendants-appellants.

I have heard learned counsel for the appellant and have gone through the record.

From the record, I find that the only dispute between the parties is whether prior sanction of PSEB is required before

installation of transformers in the premises by the plaintiff. It is admitted fact between the parties that plaintiff was allotted the electric connection No.BS002 and was allowed to get installed transformer of 4000 KVA in its premises. The said electric connection was inspected by the Addl. Superintending Engineer (Enforcement) Ludhiana, who found that plaintiff had installed transformer of total capacity of 5250 KVA against the sanctioned capacity of 4000 KVA. The connection was installed as per the provisions of commercial circular No.62/2001 issued by the defendants. The dispute is regarding the interpretation of the circular. As per this circular, it was requisite for the plaintiff to get installed the electronic meter in its premises and to store the date of the meter, which was to be downloaded by the Senior Executive Engineer/MMTS at regular intervals.

In the present case in hand, electronic meter has been installed and there is no such violation by the plaintiff. The plaintiff was allowed the sanctioned load of 4000 KVA and it has come in the evidence that the plaintiff has never exceeded 2500 KVA from the date of release of the connection at any point of time, meaning thereby, that though two transformers were installed by the plaintiff at the time of inspection of electric meter on 17.02.2004 but no electric energy was passing/utilized through the same by the plaintiff. This fact that no electric energy was passing through these extra two additional transformers at the time of inspection, has not been disputed at the time of arguments by learned counsel for the appellants-defendants.

I have gone through the circular, which is also reproduced

in the judgment passed by learned Addl. District Judge, Ludhiana. No penalty has been imposed for installing extra transformers. When these are to be used, the electricity is to pass through these additional transformers and only then the sanction is to be taken. Otherwise, as per the circular, these transformers upto double of the sanctioned load, can be installed in the premises and no violation has been committed by the plaintiff by installing these two additional transformers through which the electricity was not passing. It is also on the record that plaintiff never exceeded the sanctioned load, which was 4000 KVA and as per the evidence, the maximum load utilized by the plaintiff was upto 2500 KVA, much less than the sanctioned load.

In view of the findings given by learned Addl. District Judge, Ludhiana, I find that these findings are as per evidence and law and learned Addl. District Judge has correctly set aside the findings given by learned Civil Judge, Ludhiana. The judgment and decree dated 15.11.2013 passed by learned Addl. District Judge, Ludhiana, is correct, as per law and does not require any interference from this Court and the same is upheld. No substantial question of law arises in the present regular second appeal.

Therefore, finding no merit in the present regular second appeal, the same is dismissed.

July 07, 2015
Vgulati

(INDERJIT SINGH)
JUDGE