

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

**RSA NO. 890 OF 2015 (O&M)
DECIDED ON : 15.05.2015**

Amartex Industries Limited

...Appellant

versus

**Punjab State Power Corporation Ltd.
And another**

...Respondents

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. Narender Singh, Advocate.

K. C. PUR, J. (ORAL)

Amartex Industries Limited-plaintiff/appellant has directed this appeal against the judgment and decree dated 19.12.2014 passed by Shri M.P. Singh Pahwa, Additional District Judge, Bathinda, vide which the appeal preferred by the plaintiff/appellant against the judgment and decree dated 30.11.2012 passed by Shri Harjeet Singh, Additional Civil Judge (Senior Division), Bathinda, was dismissed.

Briefly stated, the case of plaintiff/appellant is that the plaintiff firm is a corporate body and it has obtained NRS Electricity connection in a showroom at Bathinda. The plaintiff firm was regularly paying the electricity bill. The plaintiff got bill dated 25.07.2010 payable upto 09.08.2010 for ₹1,47,330/-. The

plaintiff firm challenged the said bill by depositing one half of the amount and ₹1200/- as requisite fee but to no effect. The plaintiff firm got another bill dated 24.08.2010 for ₹2,05,070/- and bill dated 25.09.2010 for ₹2,47,560/- which includes the previous bill amount. The plaintiff firm alleged that the said bills are illegal and against the rules and regulations. The bill dated 25.07.2010 showing consumption of 5112 units is correct, whereas the bills in dispute showing consumption of 26626 and 20848 units are wrong. Hence, the suit was filed.

The suit was contested by the defendants by way of filing written statement and it was pleaded therein that bill dated 25.07.2010 payable upto 02.08.2010 for a sum of ₹1,47,330/- was issued but it was denied that it was illegal. It was further pleaded that bills were issued according to the consumption of units.

From the pleadings of parties following issues were framed :-

- 1) Whether the plaintiff is entitled to declaration, as prayed for ? OPP
- 2) Whether the plaintiff is entitled to permanent injunction as prayed for ? OPP
- 3) Whether the suit is not maintainable ? OPD
- 4) Whether the suit is bad for mis-joinder and non-joinder of parties ? OPD

5) Relief.

In order to prove its case, plaintiff firm examined Vipin Chand, Store Manager as PW-1 and closed the evidence.

On the other hand, the defendants examined Tarlochan Singh Brar as DW-1, Darshan Gopal as DW-2, Tejinderpal as DW-3 and closed the evidence.

The learned trial court, after appraisal of the evidence, dismissed the suit of plaintiff firm for declaration as well as injunction.

Feeling dissatisfied with the above said judgment and decree dated 30.11.2012 passed by Additional Civil Judge (Senior Division), Bathinda, the plaintiff firm preferred appeal before the First Appellate Court. The said appeal was dismissed vide judgment and decree dated 19.12.2014 passed by Additional District Judge, Bathinda. Now the plaintiff/appellant has impugned both the above said judgments and decrees dated 30.11.2012 and 19.12.2014 respectively, in the instant regular second appeal.

Learned counsel for the appellant in para no. 13 of the grounds of appeal has mentioned that following substantial questions of law have arisen in the instant appeal :-

- 1) Whether the burden of proof should validly discharge upon the appellant having submitted all the bills showing much lesser consumption pattern ?

- 2) Whether the burden to prove the electricity consumption to be real was upon the Electricity Board which had issued the bill ?
- 3) Whether the judgments and decrees passed on the basis of wrong burden of proof are bad and liable to be set aside ?
- 4) Whether the circumstantial evidence discharged the onus of the appellant-plaintiff to prove the error in the bills ?
- 5) Whether a ME Lab report showing the meter to be correct is sufficient to dispel or other evidence brought on record ?
- 6) Whether the evidence of witnesses who were not the signatories either to the written statement or the meter testing report is admissible ?
- 7) Whether the mere meter testing report of the ME lab to the effect that meter was OK is sufficient to ignore all other evidence on record and to hold that the bill had been correctly raised ?
- 8) Whether the judgments and decrees based upon misreading of the evidence are bad and liable to be set aside ?

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

It is settled law that the appeal lies only if there is any substantial question of law for adjudication. The only ground taken during the course of arguments is that previously consumption of electricity was less than 10,000 units whereas in the impugned three bills the consumption of units is on higher side. In this case, it is not out of place to mention here that there is no dispute regarding correct and proper working of the electricity meter. However, the same was got checked from the laboratory and the meter was found in order. Otherwise also, the bills in question relates to the consumption of units. All the bills were of summer season and consumption of electricity is on higher side in summers than winters. The meter was also found to be in order. There is concurrent finding of fact that the bills were rightly issued. So, I have no hesitation in holding that no substantial question of law has arisen in the instant appeal.

Consequently, the appeal is without any merit and the same stands dismissed.

MAY 15, 2015
shalini

(K. C. PURI)
JUDGE