

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**Second Appeal No. 563 of 2015
With
Civil Application No.12520 of 2015**

Kulwantsingh Bhagatsingh Gujral. .. **Appellant.**

Versus

Maharashtra State Electricity Board
Jalgaon. .. **Respondent.**

Shri. Praveen B. Gamot, Advocate, for appellant.

Shri. S.V. Mundhe, Advocate, for respondent.

CORAM: T.V. NALAWADE, J.

DATE : 5th APRIL 2016

ORDER:

1) The appeal is filed to challenge the judgment and decree of Regular Civil Suit No.199/2004 which was pending in the Court of the Civil Judge, Junior Division, Bhusawal and also against the judgment and decree of Regular Civil Appeal No.230/2014 (Old No.66/2010) which was pending in the Court of the District Judge-1, Bhusawal. The suit was filed for relief of declaration by present appellant against the defendant - MSEB that the bill of electricity issued by the defendant to the appellant,

plaintiff in respect of the period 31-5-2004 to 31-7-2004 amounting to Rs. 72,820/- is illegal. Relief of injunction was claimed to restrain MSEB from disconnecting the electricity supply on the ground of aforesaid bill. The trial Court partly allowed the suit and gave direction to defendant to comply the directions given on Exhibit 54, to take measures as per the directions like testing the meter and then issue fresh bill. The amount already deposited by the plaintiff in respect of this period was to be adjusted and the bill was to be binding on both sides. Relief of injunction was given and MSEB was prevented from disconnecting the supply till there was the compliance of order made on Exhibit 54. This decision was challenged by the plaintiff but the first appellate Court has confirmed the decision of the trial Court.

2) Learned counsel for the appellant, plaintiff submitted that there was huge difference in the bill issued for aforesaid period if the consumption of electricity for remaining period of the year was considered and so the plaintiff had the feeling that there was some fault with the meter. It was submitted that in true sense directions given

by the Court to comply the order made on Exhibit 54 was never complied with and so the appeal was required to be filed. This submission is not at all acceptable. If the trial Court had given some relief, it was necessary for the plaintiff to see that the said order was executed but instead of doing that the plaintiff rushed to the appellate Court. Due to this approach the matter remained pending in the appellate Court till the year 2015. The decision of the first appellate Court shows that steps were taken though subsequently and comparable chart was prepared after fixing of parallel meter. It was noticed that there was not much difference. The MSEB also noticed during inspection that there was tampering with the regular meter fixed in the premises of the plaintiff.

3) The position that there was probably some fault in the meter was considered by the trial Court but the circumstance like tampering with the meter cannot be ignored. It can be said that due to pendency of the matters in the Court, the authority like MSEB is afraid of taking action even in respect of tampering with the meter. It can be said that for continuously long time plaintiff paid

the charges on the basis of average meter reading and thus the appellant got benefit due to pendency of the proceeding. Such instances are increasing. The aforesaid circumstance shows that the appellant was interested only keeping the matter in the Court and use the circumstance to his advantage in the aforesaid way. Both the Courts below took care to see that the things are checked and it is ascertained that there was no fault in the meter supplied to the plaintiff. It appears that the subsequent bills were not disputed as on the basis of average reading the bills were paid. It can be said that the matter was unnecessarily protracted and the plaintiff is already benefited due to the present litigation. This Court sees no reason to interfere in the decision given by the Courts below. No substantial question of law as such is involved. In the result, the appeal stands dismissed. Civil application stands disposed of.

Sd/-
(T.V. NALAWADE, J.)

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