

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

**RSA No.1471 of 1987 (O&M)
Date of decision:26.10.2016**

Punjab State Electricity Board and others ... Appellants

Vs.

M/s Cosmo Poultry Farm ... Respondent

RSA No.1472 of 1987 (O&M)

Punjab State Electricity Board and others ... Appellants

Vs.

M/s Cosmo Poultry Farm ... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr.I.S.Sidhu, Advocate
for the appellants.

None for the respondent.

AMIT RAWAL J.

This order of mine shall dispose of two Regular Second Appeals bearing Nos.1471 and 1472 of 1987 arising out of disposal of civil suit nos.128 of 1983 and 127 of 1983, respectively, whereby, identical relief had been granted but in respect of different memos allegedly issued by the appellants, i.e., memo no. 927 in civil suit no.127 and 928 in civil suit no.128.

Mr. I.S.Sidhu, learned counsel appearing on behalf of the appellant-defendants submits that the respondent-plaintiff instituted a civil suit seeking permanent injunction restraining the appellants from

disconnecting the electricity connection on the premise that the respondent-plaintiff had been running a poultry farm under the name and style of M/s Cosmo Poultry Farm at village Landran, Tehsil Kharar. The plaintiff applied for getting the permanent electricity connection prior to institution of the suit but defendant No.3 issued a demand notice and directed the plaintiff to submit a test report. In anticipation of getting the electricity connection, the respondent-plaintiff stated to have installed electricity fittings in the poultry farm and after submitting a test report about three months prior to institution of the suit as the load required was 30KW.

However, on 29.04.1983 the Assistant Executive Engineer Flying Squad, Patiala without entering the premises and verifying the facts i.e., just inspected it from the outside. He did not see the additional fittings required for the purpose of aforementioned report, just made enquiry from the workers submitted the report that running load was 35.75 KW.

Mr. Sidhu, submits that on the basis of the report, aforementioned memo 928 dated 30.4.1983, was issued, whereby, the plaintiff was called upon to deposit a sum of Rs.16,000/- as land surcharge at the rate of Rs.500/- per KW. It is in this background of the matter, the suit aforementioned was filed on the premise that the plaintiff had been paying monthly consumption amounting to Rs.500/- to Rs.700/- and had been consuming a load of 4 KW, under temporary connection.

The aforementioned suit was contested by the appellant-defendants on the premise that the plaintiff had a temporary connection for the construction purpose upto load of 4 KW till February 1982 which was extended upto 30.4.1983. The test report submitted by the plaintiff after

carrying out the requisite fitting installation was not correct as the plaintiff was caught red handed in taking unauthorized load of 31.750 KW.

He further submits that the judgments and decrees rendered by both the Courts below in allowing the suit and dismissing the appeal are not justifiable, thus, liable to be set aside, as PW2 admitted in cross-examination that he had only one engine for giving water to the birds. The statement of DW was not taken into consideration as it was found on checking that a connected load of 35.70 K.W. The plaintiff had applied for permanent consumption for a connected load of 32.120 KW which was granted only on 15.06.1983 but since he was found to be in un-authorised use of electricity, by additional fittings, the load was increased and urges this Court for setting aside the judgments and decrees under challenge.

There is no representation on behalf of the respondents. The matter is of year 1987. Accordingly, I proceed to decide the appeal on merits.

I have heard learned counsel for the appellant-defendants and appraised the judgments and decrees of both the Courts below, as well as record and of the view that there is no merit and force in the submissions of Mr.Sidhu, for, from the statement of DW3, Sh. K.S.Goel, Assistant Executive Engineer, member of raiding party, it transpired that in the checking memo, the copy of which is Ex.P1, the meter was shown OK. Once it is so, then the version of the defendants in raising the demand by aforementioned memo of unauthorized use was meaningless. Sh. Kashmir Singh, Assistant Executive Engineer Sohana deposed that the test report for the temporary connection was submitted on 6.8.1982 and verified by the

Line Superintendent on 7.8.1982, was found to be all right. The connection was released on the same date.

It is a matter of record that the plaintiff applied for a permanent connection and submitted the test report on 29.06.1982 which was verified by the SDO on 5.7.1982 and installation was found in order and conformity with the test report. The test report has been proved on record as Ex.P2.

It is also a matter of record that the permanent connection was released on 15.6.1983. Thus, it is not the case of the defendants that plaintiff was using the excess load at the time of alleged raid. The defendants have failed to prove on record any evidence that plaintiff was using the unauthorized load. The welding set was in operation at the time of alleged raid. All these factors have been noticed by both the Courts below.

I am of the view that there is no illegality and perversity in the findings rendered by both the Courts below which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for adjudication of the present appeals.

Accordingly, the appeals stand dismissed.

(AMIT RAWAL)
JUDGE

October 26, 2016

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No