

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

RSA No.2002 of 2016

Date of Decision.12.07.2016

Sarabjit Singh

.....Appellant

Vs.

Punjab State Electricity Board (now PSPCL)

.....Respondent

Present: Mr. Sandeep Bansal, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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AMIT RAWAL J. (ORAL)

The appellant-defendant is aggrieved of the concurrent finding of fact whereby the suit at the instance of the Punjab State Electricity Board for recovery of amount of Rs.4,56,009/- along with interest 18% per annum has been decreed on account of assessment of unauthorized use of electricity/theft by the defendant.

Mr. Sandeep Bansal, learned counsel for the appellant-defendant in support of his contention had raised the following multi-fold arguments:-

- (i) That at best, the Electricity Board could have initiated proceedings under Section 135 of the Electricity Act, 2003.
- (ii) That Ex.P1, inspection report does not specify any date and time nor does bear signature of the Senior Superintending Engineer (Enforcement Wing). The provisions of Section 135 of the Electricity Act, 2003 had not been complied with and

there cannot be assumption of the alleged electricity wire being put on the overhead wires to draw the electricity connection for the purpose of running the marriage hall. No independent witness of the vicinity had been joined.

(iii) That the assessment under Section 126 of the Electricity Act cannot be the basis for seeking recovery as the appellant is not a consumer.

All these facts are not noticed by the courts below and thus urges this Court to formulate the substantial questions of law as contained in the memorandum of appeal.

I have heard the counsel for the appellant, appraised the paper book and of the view that the afore-mentioned submissions are not able to cut an ice, for, the appellant in the suit has only challenged the inspection and there is no challenge to the assessment proceedings as initiated under Section 126 of the Electricity Act. Once assessment proceedings attained finality, the remedy for the Electricity Board was to recover the outstanding amount. Section 135 of the Electricity Act deals with initiation of criminal proceedings whereas Section 126 deals with assessment of the amount due from the unauthorized use of the electricity.

During the course of arguments, Mr. Sandeep Bansal has also urged that the expression “unauthorized use” has been defined under Section 126(6) of the Act. None of the ingredients of Section 126 are satisfied and thus, the suit for recovery was wholly misconceived, much less, had no foundation. I am afraid, the aforementioned argument also does not have any substance, for, the expression “unauthorized use of electricity” as per Section 126 (6)(b)(i) means the usage of electricity by any artificial

means. Putting any unauthorized wire on overhead wires for drawing electricity falls within the aforementioned expression.

Both the courts below have concurrently held that the respondent-plaintiff is entitled to recover the amount on account of unauthorized use of the electricity by drawing electricity from the overhead wires without having been allowed any electricity connection. I do not find any illegality and perversity in the judgments and decrees passed by the courts below, much less, there is no substantial question of law arises for consideration in the second appeal.

The second appeal is accordingly dismissed.

(AMIT RAWAL)
JUDGE

July 12, 2016
Pankaj*