

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

RSA No.1155 of 2015 (O&M)

Date of decision : 06.12.2016

Buta Singh

...Appellant

Versus

Punjab State Electricity Board and another

..Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Bikramjit Singh Bajwa, Advocate for the appellant.

AMIT RAWAL, J. (Oral)

The appellant-plaintiff is aggrieved of the concurrent findings of fact, whereby the suit claiming following relief, has been partly decreed:-

“Suit for declaration to the effect that the plaintiff is the actual consumer, holder and owner of 5 BHP tubewell connection installed in the land of plaintiff situated at Village Gande Ke, Tehsil Batala District Gurdaspur, which was released on the basis of demand notice dated 08.10.1997 against application No.10086 dated 30.05.1988 issued by the defendant No.2 with consequential relief of suit for permanent injunction restraining the defendants from disconnecting or interfering in the possession of the plaintiff of the tubewell connection mentioned above, illegally, forcibly and in any manner whatsoever.”

Mr. Bikramjit Singh Bajwa, learned counsel appearing on behalf of appellant-plaintiff submits that defendants had released the

connection to the persons who were found to running the motors by drawing electricity from the overhead wires i.e. kundi connection. The plaintiff received the demand notice dated 08.10.1997 for release of the connection which was applied on 30.05.1988 and in lieu thereof, deposited a sum of ₹4,000/- on 06.11.1997. Accordingly, electric connection was released by defendants. Same is being used for running the tubewell for which a sum of ₹1,50,000/- had been spent. Defendants released the kundi connection on the basis of the said application but the allegation of the defendants was that the connection was issued due to inadvertence was not backed by any reasons. The matter was taken to the Dispute Redressal Forum but it had dismissed the suit on the ground of maintainability. It is in this backdrop of the matter, suit, aforementioned, was filed. Courts below have erroneously relied upon the defence of the defendants taken in the written statement, thus, there is gross illegality and perversity.

I have heard learned counsel for the appellant-plaintiff and appraised the paper book.

The categoric stand of the respondents-defendants had been that demand notice dated 08.10.1997 was issued against the application bearing No.10086 which was inadvertently issued by the defendants as tubewell connection had already been issued against the captioned application to the plaintiff in the year 1990. Deposit of ₹4,000/- in the year 1997 was not disputed but it was stated that no tubewell connection was issued to the plaintiff against the deposit of aforementioned amount. In fact, there was only one application for tubewell connection and no other application was submitted by the appellant-plaintiff. The connection was

released way back in the year 1990 vide release No.107/6592 but it was realized that once the connection had already been issued, therefore, demand notice was sent for taking back the connection. The said factum has not been disputed by the plaintiff by leading direct and cogent evidence. It was incumbent upon the plaintiff to ascertain in the cross-examination and by summoning the record of the offices, that there were two applications, therefore, entitled to electric connection. The trial Court has rightly granted the injunction for one connection bearing No.EN-185, by declining the relief of declaration.

I do not intend to differ with the same, much less, no substantial questions of law arises for determination by this Court.

Accordingly, present appeal is dismissed.

06.12.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No