

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

(1) RSA-1229 of 2015 (O&M)
Date of decision: 22.01.2016

M/s Prahlad Cotton Ginning and Pressing Factory
...Appellant

Versus

Punjab State Power Corp., Ltd., and another
...Respondents

(2) RSA-1230 of 2015 (O&M)
Date of decision: 22.01.2016

Surja Ram & Sons
...Appellant

Versus

Punjab State Power Corp., Ltd., and another
...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

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

Jitendra Chauhan, J. (Oral)

CM-3486-C-2015 in RSA-1229-2015

CM-3487-C-2015 in RSA-1230-2015

Keeping in view the averments made in the
application(s) in both the petitions, the same are allowed. The
delay of 262 days in filing the present appeals is hereby

condoned.

Main Case

The above noted two appeals are being disposed of by this single judgment, having arisen out of the common judgment.

2. By way of the present appeal, the plaintiff/appellant has assailed the judgment dated 05.02.2014, passed by Addl. District Judge, Sri Muktsar Sahib, upholding the judgment dated 28.02.2013, passed by Civil Judge (Jr. Divn.), Malout, whereby the suit for recovery filed by the plaintiff/appellant was dismissed.

3. It is contended by learned counsel for the appellant that both the Courts below have gravely erred in ignoring the fact that the application along with test report for reducing the load was submitted by the plaintiff/appellant on 10.11.2009 and thereafter, the said application along with agreement was submitted on 17.11.2009 which was forwarded by the SDO to the Revenue Clerk for processing the application. The processing charges were deposited on 26.11.2009. The learned counsel further contends that DW1, the SDO Harkrishan Singh, in his sworn affidavit has stated that the plaintiff has not

submitted application for reduction of contract demand but as per Section 20.2.2 of ESR 2005 and as per regular of defendant/respondent No.1, the bill can be reduced after 60 days. Both the Courts below have overlooked the fact that Ex. P-10, the bill for the month of January/February was issued on 08.02.2010 and Ex.P13, whereas, the bill for the month of February/March was issued on 08.03.2010 and the amount was deposited by the plaintiff/appellant to avoid disconnection. The prayer made by the plaintiff/appellant to the respondent's department for reduction of load was not considered.

4. Heard.

5. The claim of the plaintiff/appellant was that an excess amount was charged despite the reduced sanctioned load on his electricity meter. The onus to prove the claim as projected was upon the plaintiff/appellant before the Courts below to substantiate the factum of reduced sanctioned loan. He had to prove on record that he did not fall in the category of large supply consumer and had been wrongly charged by the defendants-respondents. Indisputably, the load had been sanctioned and reduced from 157.170 to 113.156 KV at the request of the plaintiff/appellant. The defendants-respondents

had asserted that it was a contract demand and the plaintiff had been charged as per circular dated 01.11.2007, according to which large supply consumers were charged on the basis of contract demand and not on the basis of sanctioned load. Further, as per notification dated 15.04.2010, all the authority of the Board with regard to financial matters had been transferred to the respondent-PSPCL. Accordingly, this Court feels that the defendants-respondents had rightly charged the plaintiff in view of Circular dated 01.11.2007. This Court finds that the contentions have no merit as they only relate to the appreciation of evidence. No evidence is shown to have been ignored from consideration, nor there is any misreading of evidence. In **Kashmir Singh Vs. Harnam Singh and another**, 2008(2) RCR (Civil) 688, it has been held as under:-

“17. The general rule is that High Court will not interfere with concurrent findings of the Courts below. But it is not an absolute rule. Some of the well recognized exceptions are where (i) the courts below have ignored material evidence or acted on no evidence; (ii) the courts have drawn wrong inferences from proved facts by applying the law erroneously; or (iii) the courts have wrongly cast the burden of proof. When we refer to 'decision based on no evidence', it not only refers to cases where there is a total dearth of evidence, but also refers to any case, where the

evidence, taken as a whole, is not reasonably capable of supporting the finding.”

6. These are pure findings of fact. No question of law, much less substantial question of law arises in the present appeal. Hence, no interference is called for. Accordingly, both the appeals are dismissed.

22.01.2016

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(JITENDRA CHAUHAN)
JUDGE