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

**RSA-4601-2016 (O&M)**
**Date of decision : 07.09.2016**

Uttar Haryana Bijli Vitran Nigam Ltd. and others

... Appellants

Versus

Santosh Mishra

... Respondent

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. P.K. Longia, Advocate
for the appellants.

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**AMIT RAWAL, J. (ORAL)**

**CM-11933-C-2016**

For the reasons stated in the application which is duly supported by an affidavit, delay of 20 days in filing the appeal is condoned.

CM stands disposed of.

**RSA-4601-2016**

The appellants-UHBVN & others are aggrieved of the impugned judgment and decree of the lower Appellate Court, whereby the decree of declaration to the effect that the Bill No.2720 dated 05.03.2012 and 2729 dated 06.05.2012 have been held to be illegal, wrong, null and void and decree for mandatory injunction directing the defendants to refund the amount of ₹ 99,790/- of Bill No.2729 dated 06.05.2012 to the plaintiff, have been passed.

Mr. P.K. Longia, learned counsel appearing on behalf of the appellants submits that the suit, aforementioned, was not maintainable, in fact, for the month of February 2007, the bill for consumption of electricity was sent on average basis. At that time, the meter reading was 3165 units and the meter, on request of the respondent-plaintiff, was changed in the month of September 2011 and actual reading at that time was 32559 units, but due to oversight, the plaintiff could not be charged for the actual consumption. The mistake was pointed out in audit and therefore, the Bill, aforementioned, was raised. The lower Appellate Court has failed to notice the provisions of Section 126 of the Electricity Act as the jurisdiction of the Civil Court, in this regard, was *ex facie* barred. The plaintiff failed to make out a case of jurisdictional error by invoking the jurisdiction of the Civil Court. The action taken was strictly in accordance with law, thus, urges this Court for formulation of the substantial questions of law as drawn in the memorandum of appeal.

I have heard the learned counsel for the appellants and appraised the paper book and of the view that no prior notice was given by the defendants before sending the Bill. The plaintiff, as per the case set up, had visited the defendants on many occasions and even, moved an application for correction of the Bill on 25.04.2012 which was duly received, but the defendants refused to entertain the same, thus, the bills dated 05.03.2012 and 06.05.2012, have rightly been held to be not sustainable. Though, under the pressure of the disconnection of the electricity supply, the plaintiff deposited an amount vide cheque No.8904028 dated 22.05.2012, but even then defendants did not correct the bill. The previous electricity bill of January 2012 (Ex.P-6) produced on record showed that the bill was for amount of ₹ 908/-. Though the meter had been changed in September 2011, therefore, the defendants cannot raise the bill on the basis of audit report. In my view, the plaintiff cannot be denied a right of audience before issuance of enormous bill that too on the basis of the audit report, in my view, the action taken belatedly had not been explained. The lower Appellate Court rightly held that the suit was maintainable and the demand was illegal.

For the foregoing reasons, I do not intend to differ with the findings rendered by the lower Appellate Court which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination and accordingly, the appeal is dismissed.

**( AMIT RAWAL )**
**JUDGE**

**07.09.2016**
yogesh

Whether speaking/reasoned **[✓ Yes]/ No**

Whether Reportable **Yes/ [✓ No]**