

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

RSA No. 3122 of 2007

Date of decision:16.11.2017

Dakshin Haryana Bijli Vitran Nigam Ltd. & another ...Appellants

Vs.

Satish Kumar Gupta & another ...Respondents

CORAM:-HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Praveen Gupta, Advocate,
 for the appellants.

 Mr. Vikrant Pamboo, Advocate,
 for the respondents.

RAJIV NARAIN RAINA, J.

The defendants in the suit, the Nigam has appealed against the judgment and decree dated 06.06.2007 passed by the learned District Judge, Faridabad. Earlier, the trial Court of the Additional Civil Judge (Senior Division), Faridabad had decreed the suit of the plaintiff-respondent on 31.05.2006.

The appellant is a commercial consumer of electricity supplied by the appellant-Nigam. During a surprise inspection, the present respondents were accused of overloading electricity. The position at site was that the appellants have two adjoining industrial plots with separate meters installed and therefore, a case of illegal clubbing would not arise as the Nigam has tried to make out. Of the two adjoining plots owned by the respondents, they have let out one plot to their relatives, who took the premises on rent to carry on their own business. The electricity meter that

was checked was in the premises of the plaintiff-respondent.

The case of the plaintiffs in the suit was that between the two plots owned by them, there was a small gap of about 3.5 feet. The bills of the meters of the two plots were issued separately. The mistake committed by the Nigam, which led to the dispute when in August 2000, the plaintiffs received bills of electricity consumption, though the consumption was less, but the billing was high and penalty of 25% was added to the bill.

Aggrieved by this inflated bill, the plaintiffs approached the department in the first instance and on making inquiries found that the Nigam had wrongly clubbed the two adjoining Industrial plots and charging 25% penalty thereon. The bills were paid under protest and the trial Court was approached in the present suit for declaration and permanent injunction to the effect that imposition of the penalties upon the plaintiffs assessed to the tune of ₹1,45,884/- and ₹71,917/- were illegal demands and the Nigam should be restrained from raising the bills by clubbing separate meters and imposing penalty. On the basis of this presumptive bills, the prayer in the suit was to set aside these inflated bills issued by the Nigam demanding the impugned payment(s).

One of the two industrial plots is owned by the plaintiff No.1 (Satish Kumar Gupta), but the other belongs to his wife-plaintiff No.2 (Veena Gupta). It is the premises of the wife, which is let out to the relatives on rent to run their own business in the name and style of M/s Shakshi Electrical Private limited.

Heard the learned counsel for the parties at some length and perused the record with their assistance.

The learned District Judge, Faridabad in his judgement has

revisited the evidence and on careful examination of the record has found that premises were separate with separate electricity meters. The plots were purchased at different times and there was no clubbing of the premises as they have independent meter for all intents and purposes including electricity tariff. The premises were not the same, then clubbing could not have been done as husband and wife were separate legal entities.

The fact established in the trial Court and re-affirmed in the first Appellate Court was the checking party when it made the report Exhibit P.24 did not find the wiring from one premises to the other were linked to each other. The load which was found on the spot at the time of checking was less than the sanctioned load and on these premises, the learned District Judge, Faridabad rightly concluded that the demand was illegal and the bills were liable to be set aside and the amount ordered to be refunded to the plaintiffs. The findings of fact recorded by the Courts below concurrently are based on legal evidence and the same have been appreciated in the proper manner and interference is not warranted against the judgment and decree in appeal.

Accordingly, the appeal is held to be without any substance and the same dismissed.

(RAJIV NARAIN RAINA)
JUDGE

16.11.2017
neeraj/Vimal

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>