IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.315 of 2017 (O&M)
Date of Decision : 28.07.2017.

Uttar Haryana Bijli Vitran Nigam Ltd. ......Appellant

Versus

Smt. Radhika ...... Respondent

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. R.S.Longia, Advocate for the appellant.
Mr. Devinder Singh, Advocate for the respondent.

ARUN PALLI, J. (Oral)

The defendant is in appeal against the judgment and decree dated 25.02.2016, rendered by the Additional District Judge, Rohtak, vide which, the suit filed by the plaintiff was decreed.

In a suit filed by the respondent she claimed that a theft penalty imposed by the department for a sum of ₹32,087/- vide memo No.1205 dated 11.08.2011 and demanded for compounding fee i.e. ₹12,000/-, vide memo No.1206 dated 11.08.2011 be set aside being null and void. And the amount deposited by the respondent in response thereto was ordered to be refunded.

On a consideration of the matter in issue and the evidence on record, the learned Additional District Judge concluded that as per test report Ex.P6 an old meter No.42525 was installed outside the premises of the respondent by the appellant. So much so, N.P. Singh, Retired SDO (OP) M&T Lab, UHBVNL (DW1) testified in his deposition that during inspection the machinery of the meter was not checked and only it's accuracy was seen. Checking report Ex.P7 revealed that at the time of physical inspection of the meter No.42525, on 16.04.2011, by the official of the appellant, the seals of the meter were intact. Therefore, the respondent could not be made a scapegoat for the tampering of the seals, particularly when the meter in question was installed outside the house of the respondent on the main road. DW1 further testified in his statement that body of the meter was built of a composite material. And in the checking report Ex.R1 nothing was indicated if there was any tampering with the whole body of the meter. Not just that he further deposed that the meter was not found damaged in any respect. In any case, in order to succeed, the appellant was reacquired to prove that the actual consumption of electricity by the respondent was far more than the consumption shown as per the meter reading. That being so, the only and the inevitable conclusion that could be reached was; that impugned memos dated 11.08.2011 (Ex.P4) imposing theft penalty of ₹32,087/- and memo dated 11.08.2011 (Ex.P5) imposing the compounding fee of ₹12,000/- were illegal, null and void.

On being pointedly asked, learned counsel for the appellant could not indicate, as to how the conclusion arrived at by the learned Additional District Judge, was either contrary to the record or suffered from any material illegality.

In conspectus of the above, no ground is made out to interfere with the impugned judgment rendered by the Additional District Judge, Rohtak. The appeal being devoid of merit is accordingly dismissed.

28.07.2017 **(ARUN PALLI)**

Manoj Bhutani **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable: Yes/No