

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

**RSA No.6386 of 2016 (O&M)
Date of Decision: May 24, 2017**

**Gurmeet Singh
Versus**

..Appellant(s)

Uttari Haryana Bijli Vitran Nigam Ltd. and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Munish Gupta, Advocate
for the appellant.

ANITA CHAUDHRY, J.

This is the second appeal by the un-successful plaintiff.

His suit and appeal were dismissed.

The plaintiff was challenging the checking report dated 05.10.2011 issued to him by Uttari Haryana Bijli Vitran Nigam Ltd. (here-in-after referred to as the Nigam). The plaintiff claimed that the checking report showing excess load was illegal, null & void and not binding upon him. He was seeking restoration of the electric supply.

The plaintiff had pleaded that Electricity Connection Nos. DD-11-1499-M and DD-21-1511-X were installed at his premises with sanctioned load of 0.9 KW and 2.09 KW respectively and he had deposited the requisite amount. On 15.10.2011, defendant nos.4 to 7 came at his house and demanded bribe of Rs.20,000/- and upon refusal by the plaintiff, they removed the electricity meters and provided an alternative meter. Thereafter, checking reports were prepared, showing excessive load of 2.520 KW in place of original load of 0.9 KW regarding Electricity Connection No.DD-11-1499-H. Regarding

electricity Connection No.DD-11-1511-X excessive load of 5.519 KW was shown instead of approved load of 2.09 KW.

Defendants took the plea that the electricity meters installed at the premises of plaintiff were inspected by the authorized officials of the Nigam on 05.10.2011 in the presence of plaintiff, who signed the checking reports LL-1 after understanding the same voluntarily without any fear from any side. The copies of checking reports were also supplied to him and videography of checking was prepared. It was pleaded that meters were found tampered and the meters were removed from the site and packed in cardboard duly signed by the plaintiff and members of checking party. A notice of suspected theft was issued to the plaintiff vide memo dated 5.10.2011 and the sealed meters were sent to M&T Lab, Karnal and were checked on 15.11.2011 in the presence of plaintiff and during the checking all seals were found tampered and the complete electronic circuit of the meters was found disturbed and electricity was unauthorizedly drawn by restricting actual energy recorded by the meter. Accordingly, Nigam assessed the amount of Rs.1,22,938/- as the loss caused by the plaintiff and he was given an option vide notice dated 24.11.2011 to compound the offence and was asked to accept the assessment and to deposit the 100% assessed amount with the Nigam for restoration of the supply but he failed to comply with the notice.

During the course of the evidence the plaintiff admitted his signatures on checking reports Ex.D1 to Ex.D4 and that the meters were checked in his presence. The lower Court found the story put

forward by the plaintiff not reliable or trustworthy and also found that he had concealed the true facts and it was a case of theft of electricity and the suit was dismissed.

Dis-satisfied with the judgment an appeal was preferred and the Appellate Court exhaustively dealt with the evidence in para nos.17 & 18, which read as under:-

17. It is admitted fact that appellant had taken two electricity connections i.e. one for domestic purposes and another for non-domestic purposes. The sanctioned load of the appellant was 2.9 KW and 0.9 KW and the bills placed on record by the appellant shows that the appellant was paying the electricity bills regularly. It is also admitted fact that on 5.10.2011 the premises of appellant was inspected by the officials of the UHBVNL and his both meters were checked in the presence of the appellant. The checking reports placed on file as Ex.D1 and D2 also bears the signatures of appellant and this fact made it clear that whole proceedings were carried out by the UHBVNL in the presence of appellant. The videography was also done by the respondents and they had also produced the CDs Ex.D5 to Ex.D7 during the evidence. It is also admitted that the meters of the appellant were removed and sent to Karnal in the laboratory for examination. The total load of electricity connection no.DD-21-1511 was found 5.591 KW against the sanction load of 2.9 K.W.

18. Both the meters were inspected by M&T Lab situated at Karnal and the reports shows that all the four numbers meter body seals were found tempered i.e. lace wire found cut and re-fixed in the sealing screw holes

with some adhesive material. Meter body opened after removing tempered seal for internal examination. The phase found removed from the phase CT and the secondary wires also found cut and dis-connected. The laboratory has also given the report that the complete electronic circuit has been disturbed and manipulating to draw the electricity un-authorizedly by restricting/manipulating actual energy recorded by the meter. After receiving the report the respondents had issued the order of assessment bearing no.11490 dated 24.11.2011 i.e. D14 to the appellant after assessing the amount on account of loss caused to the defendant Nigam by the aforesaid act of the theft amounting to Rs.1,21,966/- plus Rs.972/- on on account of unauthorized load as per provisions of the Electricity Act. The appellant was also given an option to compound the offence in question as per the provisions of Electricity Supply Act and Sales Circular No.54/2007 of UHBVNL, after paying the prescribed compounding fee of Rs.60,000/- but the appellant had not made the payment and thereafter a complaint was also lodged against the appellant under Section 135 of the Electricity Supply Act. The documents as well as evidence placed on file clearly shows that the appellant had unauthorizedly used the electricity by manipulating and tampering in the electric meter. The checking reports Ex.D1 and Ex.D2 were prepared in the presence of appellant and testing reports Ex.D3 and Ex. D4 were also prepared in the presence of appellant and the same bears the signatures of appellant at point A in Ex.D3 and Ex.D4.”

I have heard the counsel for the appellant and have gone through the paper-book and find no merit in the appeal. The plaintiff

had not approached the Court with clean hands and had concealed material facts. The officials of the Nigam had checked his premises and had found him drawing electricity illegally for which a penalty was imposed. Both the Courts below had correctly appreciated the evidence and I find no infirmity in the same. The findings recorded by both the Courts below are affirmed and the appeal is dismissed in limine.

(ANITA CHAUDHRY)
JUDGE

May 24, 2017
sunil

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No