IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 1173 of 2017 (O&M)
Date of Decision: 25.09.2017

Rakesh Singhal

.... Appellant

Versus

Dakshin Haryana Bijli Vitran Nigam Ltd.

.... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Tanmoy Gupta, Advocate
for the appellant-plaintiff.

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JASWANT SINGH, J. (ORAL)

Appellant-plaintiff is in second appeal directed against the impugned judgment and decree dated 03.11.2016 passed by learned Civil Judge (Sr. Divn.), Ferozepur Jhirka, vide which the suit of the plaintiff for declaration to the effect that the demand of Rs. 12,69,236/- raised by the respondent-defendant (Dakshin Haryana Bijli Vitran Nigam Ltd.) vide notice dated 16.04.2013 towards the arrears of electricity charges *(qua the previous consumer in the same premises)* is illegal, null and void, also for grant of injunction from disconnecting the electricity connection, was dismissed; and the findings affirmed vide judgment dated 23.12.2016 passed by learned District Judge, Mewat, whiling dismissing the appeal.

Learned counsel for the appellant-plaintiff has argued that the appellant was a subsequent consumer in the premises and for the default of electricity charges committed by one Raj Kumar, (uncle of appellant), qua the previous connection in the same premises, the appellant could not be made liable to pay the charges. He next submits that in view of the

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provisions of Section 56 (2) of the Electricity Act, 2003, no sum could be recovered from the consumer which were recoverable after a period of two years from the date when such sum became payable and concededly in the facts of the case, the demand has been raised vide notice dated 16.04.2013 for a period prior to November 2009, when the appellant had applied for a fresh electricity connection.

After hearing learned counsel for the appellant, this Court finds no ground to interfere in the concurrent findings recorded by both the Courts below.

It is not in dispute that the premises in question is jointly owned by the father and Raj Kumar-uncle of the plaintiff. It is also not in dispute that in the same premises, Raj Kumar (uncle) was running his business of oil mill as a co-owner. The earlier electric connection was in the name of Raj Kumar as a consumer and the same was got disconnected by Raj Kumar without clearing all the arrears. It is also not in dispute that the plaintiff applied for a fresh electricity consumer connection in the same premises alongwith an affidavit dated 27.11.2009 (Ex. D-1). In the said affidavit, it was undertaken by the plaintiff/appellant that there is no defaulting amount pending against any previous or existing disconnected electricity connection in his name or in the name of his family members. Accordingly, a fresh electricity connection was provided in the same premises, now being utilized by the plaintiff/appellant. Upon detection of previous liability of Rs. 12,69,236/-, the demand was raised ostensibly on the ground that a fraud has been committed by falsely stating in the affidavit dated 27.11.2009 by the subsequent occupier of the premises for grant of fresh electricity connection. The learned Appellate Court found that the

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said Raj Kumar was a co-owner in joint possession of the said premises and as such, the plaintiff was required to disclose about the defaulting amount of the co-owner regarding outstanding electricity dues and, therefore, the provisions of Section 56 (2) of the Electricity Act, 2003, could not bar the recovery of the dues from the plaintiff.

In view of above, this Court finds that no interference in the findings of fact of the Courts below is warranted in the appeal and, therefore, the present appeal is dismissed.

September 25, 2017 **(JASWANT SINGH)**
'dk kamra' **JUDGE**

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No

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