

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.2491 of 2017 (O&M)
Date of decision: 21.11.2017

Jasbir Singh

..... Appellant

Versus

Uttar Haryana Bijli Vitran Nigam and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Anuj Balian, Advocate
for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM Nos.6114-15-C of 2017

Delay of 42 days in filing and 132 days in re-filing the appeal is condoned for the reasons given in the applications which is supported by an affidavit.

Applications are allowed.

Main Case

Plaintiff-appellant is in regular second appeal against the concurrent finding of fact arrived at by the Courts below.

Plaintiff had filed a suit for declaration claiming that the notice of assessment dated 18.07.2012 issued by Uttar Haryana Bijli Vitran Nigam, Naraingarh by virtue of which a sum of Rs.1,39,384/- has been demanded being illegal, null and void. It is admitted fact available on the file that premises of the plaintiff was inspected on 11.02.2012 in his presence. The meter was removed as it was apprehended that the meter is running slow. The checking report is duly signed by the plaintiff. On verification of the meter at the laboratory, it was found that it was running 57.52% slow. Thus, the

officials of the aforesaid defendant-Nigam served an assessment notice to the plaintiff demanding a sum of Rs.1,39,384/-.

Plaintiff filed an appeal which was dismissed. Thereafter, he filed the civil suit. The civil suit was also dismissed after re-appreciating the evidence available on the file. First appeal filed against the aforesaid judgment was also dismissed.

Learned counsel for the appellant has submitted that in fact the notice was defective as the notice as served on the appellant was under Section 135 of the Electricity Act, 2003. Although on the first blush, the argument appears to be attractive, however on a close scrutiny, there is no substance in it. It is the plaintiff who filed the appeal as provided under Section 127 of the Electricity Act, 2003. He always treated the order of the assessment as an order under Section 126 of the Electricity Act. Appellant having filed the appeal is estopped now from alleging that the notice was under Section 135 of the Electricity Act. The authorities have not treated this case as a case of theft. The authorities have checked the electricity meter which was installed in the premises of the plaintiff-appellant and after having found it to be running slow by 57.52%, passed an order of assessment. In view of this, there is no force in the submission of learned counsel for the appellant.

For the reasons recorded above, this Court does not find any good ground to interfere with the concurrent finding of fact arrived at by the Courts below.

The appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

21.11.2017
Dinesh Bansal

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No