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

**RSA No.5353 of 2016 (O&M)
Date of Decision: 28.08.2018**

**UTTAR HARYANA BIIJLI VITRAN NIGAM LTD.
.....Appellant**

Vs

**M/S SHARANPUR JAI RICE MILLS
....Respondent**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Naveen Batra, Advocate
for the appellant.

RAJ MOHAN SINGH, J. (Oral)

Defendant is in Regular Second Appeal against the concurrent judgments and decrees passed by the Courts below in a suit for declaration with consequential relief of permanent injunction filed by the plaintiff.

The suit was decreed on 11.02.2002 on the ground that the rice mill was installed prior to the year 2000. Electricity connection was provided to the plaintiff/respondent under NDS category and the plaintiff was regularly paying the energy bills as per consumption recorded by the electricity meter. The issuance of notice in a sum of Rs.2,44,750/- including sundry charges was held to be bad in the eyes of law on the ground

that the installation of rice Mill was found to be prior to the year 2000.

As per documentary evidence Ex.P-6 to Ex.P-8 and receipt Ex.P-6/A to Ex.P-8/A showed running of Mill since 1999 onwards, the existence of the Mill was found with reference to the registration of firm in the year 1998. There was admission on the part of the defendant witness i.e. DW-1 in respect of non-applicability of development charges on the connections which were installed prior to the year 2000. There was no pleading on behalf of the defendant in the written statement in respect of security deposits made by the plaintiff again in the year 2006, nor any evidence was led to that effect. Bare perusal of the Ex.D-7 does not prove the case of the defendant that the Mill started its business only in the year 2006 and the same was running prior to 2000. The factum of area being unauthorized could not be proved by the defendant, rather installation of Mill was even as per the sanction granted by the HUDA Authority. The reference made to sale circulars No.15/2000 and 21/2000 was duly answered as the same was applicable on unauthorized colonies, whereas the Mill was not found to be covered under the definition of unauthorized colony. The sale circulars were not found to be proved by the Haryana State Regulatory Commission, Panchkula till date.

The findings recorded by the Courts below could not be demonstrated as to how the same were perverse or suffered with any illegality on account of any misreading of evidence.

In my considered opinion, the facts recorded by the Courts below cannot be appreciated in the Regular Second Appeal. The same is hereby accordingly dismissed in '*limini*'

Since the appeal is being dismissed on merit, there is no necessity of passing any order in the application for condonation of delay.

August 28, 2018

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No