

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

1. RSA No.2483 of 2014 (O&M)

Krishan Kant Sharma

... Appellant

Versus

Punjab State Electricity Board & others

... Respondents

2. RSA No.2606 of 2014 (O&M)

Jagmohan Sharma

... Appellant

Versus

Punjab State Electricity Board & others

... Respondents

Date of decision: 27th February, 2018

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Ramesh Sharma, Advocate for the appellants.

Mr. Y.P. Khullar, Advocate for the respondents.

FATEH DEEP SINGH, J.

Since both these regular second appeals concern the same issues and causes of action between the common defendant though the plaintiffs are different being collaterals but have sought similar relief and there being consanguinity of facts, both these matters can therefore be conveniently disposed off together by way of this common judgment.

The brief facts that need to be brought about are that in both the suits the plaintiffs Krishan Kant Sharma and Jagmohan Sharma both of M/s Durga Rice Mills through separate civil suits bearing No.297 of

2006 and 414 of 2006 have sought decree for grant of permanent injunction restraining the defendant from disconnecting domestic electricity connection bearing Nos.AK-25/0025 and AK-28/007 respectively. The grounds in both the matters are common. It was on the basis of demand raised pertaining to connection bearing account No.LS-3 of M/s Durga Rice Mills, the defendant Board had sought to disconnect the electricity supply to the premises of the appellants on account of non-payment of the dues amounting to Rs.2,33,428/- for the period March 1998 to April 1999. The defendant Board which has since been dissolved paving way for the new authorities under the Electricity Act, 2003. Section 56 of this Act provides that after notice of not less than fifteen days in writing the authorities can cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid. The provisions are reiterated as below to lay emphasis:

*“56. Disconnection of supply in default of payment –
(1) where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating*

company may, after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

Provided that the supply of electricity shall not be cut off if such person deposits, under protest, -

- (a) an amount equal to the sum claimed from him, or*
- (b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months,*

whichever is less, pending disposal of any dispute between him and the licensee.

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this Section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.”

It is by no means refuted or could be displaced by learned counsel for the appellants that their agitation over the recovery was taken up before the Disputes Settlement Committee but the plaintiffs did not meet with any success and it is there that both the domestic connections of account No.LS-3 were earlier in the name of one Panna Lal (now deceased) and therefore at the time of this default there was single consumer who happens to be predecessor-in-interest of the plaintiffs and it is not a case where dues of the premises are being recovered from a subsequent occupier as the dues were against M/s Durga Rice Mills which was owned by the above said Panna Lal as proprietor and therefore, all these connections are and were deemed to be in the name of one and the only person at the time when arrears became due. Even before the amendment, doing away with the State Electricity Boards, the erstwhile Indian Electricity Act, 1910; Section 24 was carved out for such coercive means. The defendant being licensee, is authorized by these legal provisions to recover any charge of electricity which is due towards a party and where as in the erstwhile sales manual of the Punjab State Electricity Board, some provisions by way of instruction No.179 had been framed whereby charges of one connection can be debited to the other connection of the same consumer. The learned Court below has considered at length all these statutory provisions and has given a well reasoned finding holding that the bill was to be paid by 22.02.2006 and therefore, the plaintiffs besides having availed of the remedy before the Disputes Settlement Committee, had failed to get any relief. It is not the

case of the plaintiff side that no charges were in existence against their firm M/s Durga Rice Mills and since they invariably accept the dues towards public undertaking they are supposed to ensure that they abide by the rules and pay for their consumption of the energy. The trial Court and so the learned first appellate Court have considered these vital aspects that the defendant PSEB was well within its rights to make recovery of the charges due from the consumer which was at default and for which it had rightly chosen coercive means by way of disconnection of their other electricity connections. Learned counsel for the appellants could not pinpoint any illegality or perversity in the impugned findings of the courts below. Both the appeals being devoid of any merit stand dismissed. Records be sent back.

(FATEH DEEP SINGH)
JUDGE

February 27, 2018

rps

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