

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

RSA No. 25 of 2017 (O&M)
Date of decision : August 10, 2018

Uttar Haryana Bijli Vitran Nigam Limited & others

..... Appellants

v.

M/S Haryana Auto Service Station

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Tarun Seth, Advocate
for Mr. Sumit Jain, Advocate
for the appellants.

Ajay Tewari, J (Oral)

This appeal has been filed against the concurrent judgments of the Courts below decreeing a suit filed by the respondent.

Brief facts are that the respondent had claimed declaration that the demand for theft of energy which was levied against it was illegal, and for mandatory injunction directing the appellants to refund/adjust the amount which, as per the respondent, was wrongly got deposited by it. The case of the appellants was that on inspection having been carried out, the inspecting team took the meter of the respondent for testing in the M&T Lab and on testing it was found that the respondent was indulging in theft of electricity and that is why penalty was imposed upon it.

Both the Courts below found that as per the instructions and the

law laid down by this Court, it was the right of the consumer to be present at the time of testing and to be confronted with the testing report before imposition of penalty. In the present case, firstly the respondent was not able to prove service of the notices, and secondly the two notices which were sent were for the very next day i.e on the first occasion notice was issued on 26.3.2012 whereby the respondent was directed to appear on 27.3.2012, and second notice was issued on 14.5.2012 whereby the respondent was required to be present on 15.5.2012. Moreover, admittedly even the testing report was not notified to the respondent so that it could file any objection against the same.

Counsel for the appellants has not been able to show why the appellants could not prove due service of the notices and why notice for one day was given when the rule required 7 days' clear notice. There is also no explanation why the testing report was not sent to the respondent.

In the circumstances, no fault can be found with the judgments of the Courts below. Consequently, this appeal is dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

August 10, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No