

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2019

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Second Appeal No.1772 of 2004

1. Tamil Nadu Electricity Board,
rep.by the Superintending Engineer,
Erode Electricity Distribution Circle,
Erode-9.
 2. Tamil Nadu Electricity Board,
rep. by its Executive Engineer (Urban),
Erode Electricity Distribution Circle,
Erode-9.
 3. The Assistant Executive Engineer (O&M) North,
Tamil Nadu Electricity Board, Erode.
 4. The Junior Engineer (O&M),
Veerappan Chatram (Rural),
Tamil Nadu Electricity Board, Erode.
- ... Appellants/Defendants

..Vs..

Full Moon Industrial Ceramics (P) Ltd.,
rep. by its Managing Director,
P.Ganeshan,
H-4, Periyar Nagar,
Erode.

सत्यमेव जयते... Respondent/Plaintiff

PRAYER: Second Appeal is filed under Section 100 of the Civil Procedure Code, against the judgment and decree dated 20.11.2003 of the Learned Principal District Judge, Erode made in A.S.No.64 of 2003 confirming the judgment and decree dated 17.12.2002 made in O.S.No.585 of 2000 of the learned Principal District Munsif, Erode.

For Appellants : Mr.V.Viswanathan

For Respondent : No appearance

J U D G M E N T

Heard the learned counsel for the Appellants.

2. Perused the grounds of appeal raised by the appellants herein who has lost their case before both the Courts below since they failed to justify the demand raised against the respondent seeking penalty and consumption charges.

3. The Courts have concurrently held against the appellants, by specifically accepting the case of the plaintiffs that originally the load strength allotted to plaintiffs was 111.9 K.W. The power factor was always above 0.85 but only due to defect in the equipment, it has shown below 0.85. When the defect in the equipment was brought to the notice of the department, the department has taken necessary measures to replace the defective equipment. The plaintiffs have positively proved that he is not liable to pay the money demanded by the appellants contrarily the appellant failed to justify the demand of penalty. On facts, both the Courts have held against the appellants. The Substantial Question of law raised in this appeal is not backed by materials, to show that due to fault of the plaintiffs, the minimum power factor went below the level prescribed.

4. In such circumstances, this Court finds no merit in the appeal. Accordingly, the Second Appeal is dismissed. No costs.

bsm

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Principal District Judge,
Erode.
2. The Principal District Munsif,
Erode.
3. The Record Keeper, V.R. Section,
High Court, Madras.

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sj (CO)
kak(18/03/2019)