

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

RSA No.2371 of 1995 (O&M)
Date of decision: 25.09.2019

Moti Ram

... Appellant

Versus

Haryana State Electricity Board, HSEB Office Complex, Sector 6, Panchkula,
through its Chairman and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Sanjay Vij, Advocate for the appellant.
Mr. Sharad Aggarwal, AAG, Haryana.

ARUN PALLI, J. (Oral)

The suit filed by the appellant-plaintiff was decreed by the trial court vide judgment and decree dated 03.10.1994, but as the appeal preferred against the said decree was accepted and the judgment rendered by the trial court was reversed, the plaintiff is before this Court in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Plaintiff prayed for a decree for injunction, restraining the defendants from recovering an amount of Rs.6395.60, pursuant to impugned bill, and further injuncting the defendants from disconnecting the power connection bearing meter/account No.PSP-72.

In brief, the case set out by him was that he was a proprietor of a flour mill (Atta Chakki). The officials of the defendant-Board in February, 1988 checked the electricity meter installed at his premises and found that meter was out of order, for one of its phases was dead. Resultantly, plaintiff was asked to pay a penalty of Rs.219/- for extra 300 units. The officials of the Board rather than removing the dead meter again raided the premises on

21.04.1988 and disconnected the power supply and removed the meter. Whereafter, he was served with a bill of Rs.6395.60 and an FIR for theft of electricity was also registered against the plaintiff. Faced with this, he deposited a sum of Rs.1635/- for getting the connection restored. But being aggrieved by the impugned bill for Rs.6395.60, and apprehending threat of disconnection, he filed the present suit.

In defence, the defendants pleaded, *inter alia*, that during the surprise checking by the Assistant Director, Vigilance on 21.04.1988, two numbers of M&P seals were found broken and the meter in question was found tempered with, resulting in disconnection. The plaintiff was accordingly charged on eight hours daily consumption basis for six prior months.

Upon a consideration of the matter in issue and the evidence on record, the trial court decreed the suit, for, the impugned bill (Ex.P2) was served upon the plaintiff without affording any notice or opportunity of hearing and, thus, the action of the defendants was in breach of the principles of natural justice.

However, the first appellate court, on a due and comprehensive analysis of the matter, and evidence on record, concluded that it was undisputed that plaintiff was present at the time of surprise checking by the raiding party in February, 1988, and his signatures were duly obtained on all necessary documents. The report (Ex.D1), upon which the whole case of the defendants is predicated, also bears signatures of not only the officers concerned but also of the plaintiff. Not just that, there was an endorsement dated 22.04.1988 by the Sub Divisional Officer in red ink as regards the calculations made on the following day, which were in the form of a

correction of the calculations made at the spot. Therefore, the report (Ex.D1) could not be termed as a forged document. Further, as the impugned bill in respect of an Atta Chakki did not cover any substantial amount and the billing was done only on the basis of principal of charging six months arrears, if the electricity was consumed with a defective meter, no notice in the given circumstances was necessary. Particularly when it was not disputed that the meter was found burnt at the time of first inspection in the year 1988 and the consumer was drawing direct electricity, which was unauthorized. Undoubtedly, once the department had noticed that meter was tempered with it was under an obligation to replace the same, but equally the plaintiff would also not be absolved from the liability once found running his flour mill through a defective meter. Likewise, he could not express any grievance over the billing made on average basis of last six months, for, Section 26(6) of the Electricity Act itself postulates for back billing for a period of six months. Thus, the defendant-Board was well within its rights to realize the disputed amount.

In the wake of the above, and the conclusion recorded by the first appellate court, I am dissuaded to interfere in the impugned judgment and decree. No question of law, much less any substantial question of law, arises for consideration.

The appeal being devoid of merit is accordingly dismissed.

(Arun Palli)
Judge

25.09.2019
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO