

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA NO.3185 OF 2019 (O&M)
DATE OF DECISION: 04.07.2019

UTTAR HARYANA BIJLI VITRAN NIGAM LTD
AND ANR. ...APPELLANTS..

VERSUS

RAVINDER ...RESPONDENT..

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. R.S. Longia, Advocate,
for the appellants.

RAMENDRA JAIN, J. (ORAL)

Through this regular second appeal, appellant-Nigam has sought reversal of judgments of both the courts below dated 24.04.2019 passed by appellate court and 15.01.2019 passed by trial court.

Briefly, the official of Nigam on 02.07.2016, after checking the premises allegedly owned by the respondent-plaintiff, imposed a penalty of ₹31,770/- upon him with compounding fee of ₹4000/-. On receipt of notice, respondent-plaintiff approached the appellant-Nigam to withdraw its demand notice asking him to deposit ₹31,770/-, but it did not budge to his request, which forced him to approach civil court by way of a suit for declaration and permanent injunction, pleading that demand letters No.1185 and 1186 dated 13.07.2016 asking him to pay ₹31,770/- was illegal.

The Id. Trial court, after holding full fledged trial, accepted his claim, while decreeing the suit vide judgment and decree dated 15.01.2019.

Being dissatisfied, the appellant-Nigam approached the appellate court, but remained unsuccessful, as its appeal was dismissed vide judgment dated 24.04.2019.

Heard.

Since, the appellant-Nigam could not prove ownership of the respondent-plaintiff over the suit property, which was allegedly inspected by its official before imposition of aforesaid penalty, therefore, raising any demand towards penalty and compounding fee from respondent, was patently illegal. Naresh Kumar-Junior Engineer of the appellant-Nigam (DW-1) has categorically testified that they did not verify the ownership of the premises, which was checked by them on the alleged date and time.

Since, the appellant-Nigam could not prove the ownership and possession of the respondent-plaintiff over the property, therefore, this Court is not inclined to differ with the findings of both the courts below, which have been recorded in favour of the respondent after appreciation of evidence. Hence, the appeal is dismissed.

04.07.2019

sonika

**(RAMENDRA JAIN)
JUDGE**

**Whether speaking/reasoned
Whether reportable**

**Yes/No
Yes/No**