

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 269

RSA-1135-2006 (O&M)

Date of decision : 09.04.2019

Dhyan Singh

..... Appellant

VERSUS

Bharat Sanchar Nigam Ltd.

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Sanjiv Gupta, Advocate, for the appellant.

Mr. Madan Mohan, Advocate, for the respondent.

DEEPAK SIBAL, J. (ORAL)

The respondent-Bharat Sanchar Nigam Ltd. (for short, the Nigam) filed a suit seeking therein recovery from the appellant of an amount of ₹72,681/- alongwith interest. The case set up by the Nigam was that a telephone connection bearing No. PHE-21092 was installed by the Nigam in the appellant's premises. The Nigam had been sending bills for the services used by the appellant but the appellant defaulted in making payments qua four bills totalling ₹72,681/- and for this reason his aforesaid telephone connection was disconnected on 21.07.1993. Even thereafter when the appellant did not make payment of his dues, the instant suit was preferred by the Nigam to recover the aforesaid amount from him alongwith interest.

On being put to notice, the appellant appeared before the Trial Court and refuted the case set up by the Nigam. It was submitted that no amount was due towards him as he had made payment qua the bills which formed the basis of the recovery suit filed against him.

The Trial Court after sifting the evidence which had come on record decreed the Nigam's suit. The appellant filed an appeal against the

aforesaid judgment and decree of the Trial Court which was dismissed by the Appellate Court, leading to the filing of the present second appeal by him.

Learned counsel for the appellant, while drawing the attention of this Court to Ex.P8, which is a copy of the subscriber's record card, submits that it had been recorded therein that the appellant had paid ₹31,802/- and ₹6,664/- out of the amount sought to be recovered from him and that being so, at least the aforesaid amounts need to be adjusted from the total amount sought to be recovered.

Learned counsel for the respondent-Nigam submits that the above plea was raised by the appellant before the Trial Court as also the Appellate Court and both the Courts after considering such plea and going through the evidence which had come on record, have concurrently negatived the same.

The Nigam seeks recovery from the appellant of the amounts due from him qua the following four bills:-

Sr. No.	Bill dated	Amount
1.	February, 1993	₹13,440/-
2.	April, 1993	₹20,775/-
3.	June, 1993	₹31,802/-
4.	August, 1993	₹6,664/-
	Total	₹72,681/-

The above bills were exhibited as Ex.P9 to Ex.P12 and were duly proved. At the time when the appellant appeared as his own witness as DW1, in his cross-examination, a specific question was posed to him as to whether he had paid the afore mentioned amounts sought to be recovered from him through Ex.P9 to Ex.P-12. In reply, he stated that he had not done so. Such admission on the appellant's part was taken note of by

the Trial Court to decree the Nigam's suit and on the same ground the appellant's first appeal was dismissed. Further, both the Courts have concurrently held that the appellant did not produce any receipt or any other evidence to even show that he had made payments to the Nigam qua the aforesaid bills Ex.P9 to Ex.P12.

In view of the appellant's admission as also the lack of evidence on his part, as above, the concurrent opinions expressed by both the Trial Court as also the Appellate Court, which are based on appreciation of facts, warrant no interference. No question of law much less any substantial question of law is also found to arise in the present second appeal.

Dismissed.

09.04.2019
shamsher

[DEEPAK SIBAL]
JUDGE

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