

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

RSA No. 255 of 2016 (O&M)
Date of decision: 27.8.2019

M/s Jai Rath Dying and Finishing Mills

...Appellant

Versus

Punjab State Power Corporation Limited and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. S.K. Sandhir, Advocate,
for the appellant.

Ms. Mehak Sawhney, Advocate, for
Mr. Vinod S. Bhardwaj, Advocate,
for the respondents.

JAISHREE THAKUR, J.

1. The instant Regular Second Appeal has been filed seeking to challenge the impugned judgment and decree dated 13.3.2015 passed by the Civil Judge (Junior Division), Ludhiana and the judgment and decree dated 14.9.2015 passed by the Additional District Judge, Ludhiana, being against the law and facts and evidence on record.

2. In brief, a few facts need to be noticed for proper adjudication of the case.

3. The appellant herein is a consumer of electricity connection bearing account No. CW03/0043 of M.S. Category, which connection was sanctioned for a load of 96.89 KW since a long time. The appellant herein

being a consumer of electricity duly cleared the bills as raised by the Punjab

State Power Corporation (for short '**the Corporation**') from time to time, however, it sought to challenge a demand of ₹11,78,363/- as raised by supplementary bill payable by 19.2.2013. The appellant filed a suit for declaration that the demand of ₹11,78,363/- is illegal and contrary to the rules, while seeking a decree of permanent injunction restraining the respondents from disconnecting the electric connection on account of non-payment of the said supplementary demand. The civil suit was contested and as many as seven issues were framed, which are re-produced as under:-

- “1. *Whether the plaintiff is entitled to decree for declaration that demand of Rs.11,78,363/- raised by the defendants is illegal, null and void and arbitrary? OPP*
2. *Whether the plaintiff is entitled to decree for permanent injunction as prayed for from disconnecting the electricity connection? OPP*
3. *Whether the plaintiff is entitled to mandatory injunction by directing the defendants to adjust the amount if any got deposited? OPP*
4. *Whether this civil court has no jurisdiction to try this suit? OPD*
5. *Whether the plaint is liable to be rejected u/o 7 Rule 11 CPC? OPD*
6. *Whether the suit of the plaintiff is not maintainable in the present form? OPD*
7. *Relief.”*

4. After the evidence had been led and arguments heard, the trial court decided issues No. 1 to 4 against the appellant and issues No. 5 and 6 were decided as not pressed and thus dismissed the suit being not maintainable. Aggrieved against the said judgment and decree of the trial court, an appeal was preferred before the Additional District Judge,

Ludhiana, who upheld the findings of the trial court on issue No.4, but held that the trial court should not have determined the findings on all the issues i.e. issues No. 1, 2,3, 5 and 6 because the Civil Court was having no jurisdiction and thus set aside the findings recorded by the trial court on the above issues and dismissed the suit for want of jurisdiction of the Civil Court. However, while dismissing the suit, he took note of the objections of the Corporation that an aggrieved party can approach the Dispute Settlement Committee as constituted by the State Power Regulatory Commission, which has been constituted by notification dated 4.10.2013 but despite taking note of the said Dispute Settlement Committee having been constituted, the Additional District Judge failed to refer the matter or give permission to the appellant herein to approach the said Dispute Settlement Committee for redressal of its grievance. Aggrieved against the denial of the permission to approach the Dispute Settlement Committee against the alleged illegal demand of ₹11,78,363/-, the instant appeal has been filed.

5. Learned counsel appearing on behalf of the appellant raises a very limited point for redressal to the extent that once the first Appellate Court has held that civil court jurisdiction is barred, it could not have shut the door to the appellant herein to approach Dispute Settlement Committee duly constituted by the State Power Regulatory Commission by notification dated 4.10.2013.

6. Learned counsel appearing on behalf of the respondent—Corporation in all fairness admits that a Dispute Settlement Committee has been constituted for handling of consumers complaints and speedy resolution of consumer grievances and in case of any dispute, which

pertains to billing, metering faults etc. the Dispute Settlement Committee is competent to adjudicate the matter and it is for such consumer to approach the Dispute Settlement Committee for redressal of his/her grievances. She further fairly submits that since the amount in dispute has already been deposited, the respondent—Corporation would have no objection, in case the appellant herein approaches the Dispute Settlement Committee for redressal of its grievances.

7. In view of the statement made by learned counsel for the respondent—Corporation, the plaintiff/appellant herein is relegated to approach the Dispute Settlement Committee duly constituted by the State Power Regulatory Commission for settlement of the demand so raised by the respondent—Corporation, within three weeks from the date of receipt of a copy of this order, who in turn would decide the matter in accordance with law.

8. Resultantly, the impugned judgments and decree passed by the courts below are hereby set aside and the appeal is disposed of on the above terms. It is made clear that since the amount as demanded by the respondent—Corporation has already been deposited by the appellant, the electricity connection of the appellant shall not be disconnected till the dispute is adjudicated by the Dispute Settlement Committee.

27.8.2019

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No