

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

**RFA No.4978 of 2017
Decided on : 25.02.2019**

Punjab State Power Corporation Limited and others

... Appellants

Versus

Piara Singh and another

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Ms. Harpreet Kaur Dhillon, Advocate for the appellants.

G.S. Sandhawalia, J. (Oral)

The present appeal under Section 156 of the Electricity Act, 2003 has been filed against the judgment dated 06.03.2017 passed by the Additional District Judge, Jalandhar, whereby the recovery memo dated 28.06.2010 and 17.12.2010 have been declared as illegal, null & void.

The amount claimed by the appellants was ₹1,03,142/- and resultantly, the appellants have also been restrained from illegally disconnecting the electric motor connection bearing Account No.M-1366 installed in the name of respondent No.1-Piara Singh in the land owned by his father Pritam Singh-respondent No.2.

The reasoning given by the Court that no cable and wires were reported to have been seized from the spot by the checking party headed by RW1-Jai Kumar Chadha, the then SDO and neither there was any report regarding deposit of the recovered wires and cables in the store. The appellants had also not taken any action on Ex.R5 regarding lodging of a criminal case against the landowners and the consumer for stealing power by direct tapping. It was also noticed that no other connections had been checked and no other person was called from the village to witness the

checking. The claim of the officials was that an agricultural helper was present at the time of checking and he stated to have called Pritam Singh, but there was no signature of said helper or Pritam Singh on the checking report (Ex.R3). Therefore, the demand as such has been set aside.

The petition was filed on the ground that there were two electric motor connections installed in the name of father and son separately in their land situated in village Salarpur, Tehsil and District Jalandhar. The inspection had been initiated at the instance of Gram Panchayat and demand has been raised without visiting the spot and giving due opportunity.

The defence as such was that the checking was done on 24.06.2010 by the official of the appellants in the presence of respondent No.2, who had refused to sign the checking report. An extra/additional motor of 10BHP was running by direct tapping (kundi) from the joints of 04 core cable of the electric connection bearing Account No.M-1366 and, thus, the demand of ₹1,03,142/- was raised on 28.06.2010.

The reasoning which led to the setting aside of the demand notice has already been noticed above. It is pertinent to notice that from the record which was summoned, it would be clear that neither there is any report on the record as to when the inspecting team had left to inspect the premises in question or the area. No other connection was checked on that day and there was no signatures of consumer or the landowner on the inspection report. The alleged wires or the motor which was used for extracting the illegal energy had not been taken into custody and could

RFA No.4978 of 2017

not be produced before the Court to substantiate the claim. The videography of the theft which was taking place or any photographs as such were not taken, which would be clear from the evidence of DW-1. RW-2, who was the accountant had never gone to the spot and had deposed that neither there was any seized material in his custody nor there was any record of visit in the official files. A suggestion in the cross-examination has also come forth that the whole exercise was done on account of a dispute with the Gram Panchayat.

Counsel for the appellants has tried to justify that the dispute as such has arisen on a subsequent occasion and, therefore, it is without any basis.

In the cumulative facts as discussed above, once the officials of the appellants have failed to act in accordance with the prescribed procedure in seizing the material involved in the theft and by not taking the videography to substantiate the claim of theft and the fact that even for the criminal proceedings the same was not taken to an logical end, the Additional District Judge was well justified to hold out that the claim was absolutely illegal and unfounded.

Resultantly, no case is made out to call upon the other side, in view of the above discussion. The appeal is, accordingly, dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

FEBRUARY 25, 2019
Naveen

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No