IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-128-2018 (O&M)
Date of Decision: October 16, 2019

Uppal Filling Station

...Appellant

Versus

Punjab State Power Corporation Ltd. and others

...Respondents

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

Present: Mr. Amardeep Singh Gill, Advocate,
for the appellant.

ARUN PALLI, J. (ORAL)

Suit filed by the plaintiff-appellant was dismissed by the Trial Court, vide judgment and decree, dated 14.12.2016, as even the appeal preferred against the said decree failed, and was dismissed on 21.07.2017, it is before this Court in Regular Second Appeal. Parties to the *lis,* hereinafter shall be referred to by their original position in the suit.

Plaintiff prayed for a declaration that demand of Rs.1,80,256/-, vide bill dated 21.01.2012 of Account No. 16KP 151600A, installed in the premises of the plaintiff, was illegal and void. An injunction was also prayed for, restraining the defendants from disconnecting the electric connection for non-payment of the dues.

In brief, the case set out by the plaintiff was that it was running a Filling Station, and was a consumer of an electric connection.

Plaintiff had been paying all the bills regularly as per actual consumption. A bill, dated 21.01.2012, demanding Rs.1,80,256/- was received by the plaintiff, whereas the previous bills dated 20.07.2011, 21.09.2011 and 18.11.2011 were '-0' rupees. Minus bills showed that there was adjustment of some excess payment made by the plaintiff to the defendants and, thus, vide notice dated 24.01.2012, the defendants were served with, a clarification as regards demand of Rs.1,80,256/- was sought, but to no avail. Thus, the suit.

In the written statement, the defendants took the stand that bills from April, 2010 to June, 2010 were sent to the consumer under 'N' code. Meaning thereby the billing for the said period was provisional, whereas billing from August, 2010 to June, 2011 was called with 'T' code. The billing from April, 2010 to June, 2010 with 'N' code was done owing to a clerical error, and refund of Rs.11,990/- was made to the provisional bills. Due to wrong refund, the bills of consumer for the months of August, 2011, November, 2011 and December, 2011 had been prepared as '-minus'. The meter of the consumer was changed on 30.12.2009 and, therefore, correct bills, for the period from August, 2010 to June, 2011, were prepared on the basis of actual consumption. Even the amount of Rs.1,19,903/- was wrongly refunded owing to a clerical error. Accordingly, the bills for the months of August, 2010, November, 2010, April, 2011 and June, 2011 were charged at Rs.26,713, 1,666/-, 17,751/- and 1,257/-, total Rs.1,67,300/-, and the arrears were demanded vide Bill 2/2011. Hence, the suit was liable to be dismissed.

Upon consideration of the matter in issue and the evidence on record both the Courts concurrently concluded that specific case set out by the plaintiff was that it was sent minus bills by the defendants, which showed that there was some adjustment of excess amount deposited by the plaintiff. However, no evidence was brought on record to show as to how and in what manner plaintiff had deposited excess amount with the defendants. If indeed the plaintiff had made any excess payment, it ought to have brought on record the relevant bills and other necessary documents to prove its claim. Not just that, Harbans Singh (PW-1), partner of the plaintiff, conceded in his cross-examination that it was owing to a clerical error, refund of Rs.11,990/- was made by the defendants. The bills from August, 2010 to June, 2011 were sent on the basis of actual electric consumption. The electricity bill for August, 2010, October, 2010, April, 2011 and June, 2011 in total was Rs.1,67,300/-. Thus, evidence on record duly proved that the bills sent as '0' (minus) was result of an apparent mistake committed by the officials of the Electricity Board. Therefore, the demand in question pursuant to the bill dated 21.01.2012, was based upon an actual consumption, consumed by the plaintiff. That being so, the only and the inevitable conclusion that could be reached: the suit was liable to be dismissed.

On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusions concurrently arrived at by both the Courts were either contrary to the record or suffered from any material illegality. No ground is made out to interfere with the concurrent findings recorded by both the Courts.

The appeal being devoid of merit is accordingly dismissed.

(ARUN PALLI)
JUDGE

October 16, 2019

Pkapoor Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO