

RSA No.2123 of 2016 (O&M)
Date of decision:17.05.2019

Vs.

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

AMIT RAWAL J. (Oral)

The appellant-plaintiffs sought the recovery of Rs.3,00,534/- on account of the outstanding bills of telephone connection bearing No.833016 w.e.f.1994 to 1996. It was alleged that the said bills were sent to the defendant but he did not come forward to pay the same, therefore, cause of action accrued to file the suit.

The defendant contested the suit and denied the liability with regard to aforementioned telephone connection and it was stated to be barred by law of limitation.

Since the parties were at variance, the trial Court framed the following issues:-

- “1. Whether the plaintiff is entitled to recover the suit amount of Rs.3,00,534/- as prayed for in the heading of plaint?OPP
2. Whether the suit of the plaintiff is not maintainable in the present form?OPD
3. Whether the plaintiff has got no locus standi to file the present suit?OPD
4. Whether the suit is hopelessly time barred?OPD
5. Whether the suit is bad for mis-joinder of the parties?OPD
6. Whether the plaint is liable to be rejected under Order 6 Rule 16 CPC?OPD
7. Relief.”

The plaintiffs-BSNL in support of the pleadings examined PW1 and brought on record Ex.P1 to Ex.P10 and defendant also led the evidence.

Mr. Rajesh Gupta, learned counsel appearing on behalf of the appellant-plaintiffs submitted that the trial Court categorically found that defendant had been blowing the hot and cold as the defendant in the written statement admitted the issuance of inflated bills but denied the installation of telephone connection. As and when demand note was received, new telephone connection was issued which subsequently changed the telephone number from 83216 to 833016 having STD and ISD facility which has been proved through Ex.P1 to Ex.P10.

I have heard the learned counsel for the appellants, appraised the judgments and decrees of the Courts below and of the view that Ex.P6 did not reflect any telephone connection. No document has been placed on record to establish that telephone connection bearing No.83216 originally allotted to the respondent was changed to 833016 and availed the facilities thus, was defaulted. In the absence of the same, foundation of the suit was so weak which could not stand to the scrutiny of the Lower Appellate Court being the last Court of fact and law.

As an upshot of my findings, arguments of Mr. Gupta, have not been able to bring the case within the realm of illegality and perversity to form a different opinion than the one arrived at by the Lower Appellate Court. No substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 17, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No