

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

**RSA No.5326 of 2018(O&M)
Date of Decision:05.11.2019**

Surender Kumar

.....Appellant

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ankit Aggarwal, Advocate
for the appellant.

Mr. S.K.Mahajan, Advocate
for the respondents.

LISA GILL, J.

Appellant-plaintiff, has filed this appeal being aggrieved of judgment and decree dated 13.09.2017, passed by the learned Additional Civil Judge (Sr. Division), Samalkha, as well as judgment and decree dated 03.08.2018, passed by the learned Additional District Judge, Panipat, whereby suit filed by the appellant-plaintiff, has been dismissed.

Brief facts necessary for the adjudication of the case are that appellant-plaintiff filed a suit for declaration to the effect that sundry charges of ₹6,48,669/- shown in the bill for the period from 23.04.2014 to 23.06.2014 issued in the name of the plaintiff is illegal, null, void and the plaintiff is not liable to pay the bill amount. Further a consequential relief of permanent injunction restraining the defendants forever, from forcibly

charging the abovesaid bill amount and from disconnecting the electricity connection meter account no. GG-21-7958-P, is sought. Further a prayer for consequential relief of mandatory injunction directing the defendants to accept the actual bill amount is addressed. It is pleaded that the plaintiff's brother had installed a factory at Samalkha in which electricity connection bearing account no. G-iii-3393 was issued in the name of his father-Chandgi son of Phullu Ram. Plaintiff is residing separately and had purchased a plot in Ward No.5, Gandhi Colony, Samalkha. It is further pleaded that he had constructed a factory building and applied for an electric connection. Defendant no.3 installed his connection, bearing meter account no. GG-21-4958-P. Plaintiff, it is pleaded was regularly depositing the amount raised in the electricity bills and he was shocked, when he received the electricity bill of ₹6,63,316/- issued on 12.07.2014 for the period from 23.04.2014 to 23.06.2014. Sundry charges of ₹6,48,669/- were allegedly shown illegally in the said bill. When, the plaintiff enquired about the same from defendant no.3, he was told that these charges were transferred from the bill in the name of Chandgi Ram, father of the plaintiff, which were still outstanding. It is further pleaded that father of the plaintiff is still alive and the plaintiff never stood as guarantor against the said meter account number. It is further pleaded that there are two other tubewell connections and domestic connection issued in favour of the father of the plaintiff, which are in working order and bills are being paid by the father of the plaintiff and the plaintiff is not bound to pay the bill amount of his relatives. Various requests were made by the plaintiff but to no avail. Accordingly, the present suit was filed.

Appellant-defendants contested the suit while taking various preliminary objections. It is pleaded that sundry charges were imposed as per the rules and regulations of the Nigam and were rightly transferred from the bill of Chandgi Ram to the bill of the plaintiff. It is denied that the plaintiff had ever made any request to the defendants. All the remaining averments in the plaint were denied and dismissal of the suit was prayed for.

From the pleadings of the parties, following issues were framed by the learned trial Court:-

1. Whether the plaintiff is entitled to decree for declaration as prayed for?OPP
2. Whether the plaintiff is entitled to decree for permanent injunction as prayed for?OPP
3. Whether the suit is not maintainable in the present form? OPD
4. Whether the plaintiff has no cause of action or locus-standi to file the present suit?OPD
5. Relief.

Both the parties led evidence in support of their respective claims/stands.

Learned trial Court took note of the specific stand of learned counsel for the plaintiff that previous connection (in Chandgi Ram's name) was installed on the same premises which were in possession of the plaintiff where the subsequent meter was installed (in the plaintiff's name) and further referred to the cross-examination of PW-2-Sandeep Kumar, LDC, Samalkha Sub Division Electricity Department, Samalkha. The suit filed by the plaintiff was dismissed while holding that the electric connection bearing account no. GG-21-4958-P, is installed on the same premises where the earlier electric connection bearing account no. G-iii-3393 in the name of Chandgi Ram, father of the plaintiff, was installed.

Appeal filed by the present appellant-plaintiff was dismissed by

the learned Additional District Judge, Panipat, vide impugned judgement and decree dated 03.08.2018.

Aggrieved therefrom, present appeal has been filed by the appellant-plaintiff.

Learned counsel for the appellant vehemently argues that both the learned Courts below have grossly erred in law and on fact while dismissed the suit filed by the plaintiff. It is submitted that the plaintiff has successfully proved that the electric connection bearing account no. GG21-4958 was installed on premises different than one on which the connection bearing account no. G-iii-3393 was installed. It is contended that an incorrect statement has been made by the plaintiff's counsel before the learned trial Court and the same is required to be ignored as it is opposed to the evidence on record. It is submitted that the plaintiff had in-fact purchased the premises in question vide sale deed, registered vide Vasika No.144 dated 12.04.2010. Plaintiff, thereafter constructed a factory building and applied for electric connection, which was duly released in his favour. The plaintiff, it is submitted has regularly paid all the charges for the period from 23.04.2014 to 23.06.2014. He was thus shocked to receive the electricity bill issued on 12.07.2014 containing sundry charges to the extent of ₹6,63,316/- for the period 23.04.2014 to 23.06.2014. It is vociferously argued that the plaintiff's father is still alive and the plaintiff never stood guarantor qua the said meter account number and that the premises being totally separate, the plaintiff had no liability whatsoever to pay the said amount. Moreover, with two other tubewell connections and a domestic connection already being issued in favour of the plaintiff's father, there was no occasion for foisting

sundry charges on the electric connection issued in the plaintiff's favour. |It is thus prayed that the present appeal be allowed and the judgements passed by the learned Courts below be set aside. Consequently, suit filed by the appellant-plaintiff be decreed throughout.

Per contra, learned counsel for the respondents-defendants submits that both the learned Courts below have passed well reasoned and logical judgements and there is no ground for any interference by this Court. It is thus prayed that the present appeal be dismissed and the judgements passed by the learned Courts below be upheld.

I have heard learned counsel for the parties and have gone through the photocopy of the record which was requisitioned, with their assistance.

The appellant has laid the foundation of his case on the ground that the electric connection no. GG21-4958 issued in his favour is installed on premises which are separate from the one on which electric connection no. G-iii-3393 was installed in favour of his father-Chandgi Ram. For this purpose, reliance is sought to be placed on a registered sale deed dated 12.04.2010 vide which the plaintiff claims to have purchased the separate premises in question. Learned Additional District Judge, Panipat, has specifically observed that the plaintiff did not produce the said registered sale deed. The best evidence having been withheld an adverse inference was drawn against the plaintiff.

An application under Order 41 Rule 27 read with Section 151 CPC has been moved along with the present appeal seeking to produce the copy of the registered sale deed no. 144 dated 12.04.2010. Copy of the same

is attached as Annexure A-1 with this appeal. However, learned counsel for the appellant is unable to deny that the said sale deed attached as Annexure A-1 is dated 20.04.2010 and is also not a registered sale deed. Appellant has indeed failed to prove that the premises in question where the previous connection was installed, is different from the premises where the present electric connection no. GG21-4958 has been installed. It is relevant to note that apart from the statement of plaintiff's counsel before the learned trial Court, which may even have been ignored, in case, it was opposed to the evidence on record, PW-2-Sandeep Kumar-LDC. Sub Division, Samalkha, has specifically admitted that both the electric connections were installed on the same premises. It is further a matter of record that electric connection bearing account no. G-iii-3393 was disconnected in February 2012. There is nothing on record to indicate the date of installation of the electric connection bearing account no. GG21-4958.

Learned counsel for the appellant on a specific and pointed query though unable to give the exact date, submits that the said electric connection bearing account no. GG21-4958 was installed on the premises in the year 2012-13. Earlier connection was admittedly in the name of the plaintiff's father-Chandgi Ram. It is duly proved on record that both the electric connections were on the same premises. Therefore, in view of the specific instruction no. 4.3.1 of circular no.U-15/2014, demand of sundry charges has been correctly raised by the defendant-respondents. There is no merit in the argument raised by learned counsel for the appellant-plaintiff that the appellant-plaintiff cannot be labelled to be a 'new consumer' of a subsequent electric connection, thus not covered by Regulation 4.3.1 in view

of the categoric finding that the premises where the earlier electric connection was installed are the same where the plaintiff's connection is installed. The plaintiff has indeed failed to prove his case on the basis of the evidence on record.

It is relevant to note at this stage that the Hon'ble Supreme Court in **Gurnam Singh (D) By Lrs and others Vs. Lehna Singh (D) By LRs 2019 (7) SCC 641** has observed as under:-

“Before parting with the present judgment, we remind the High Courts that the jurisdiction of the High Court, in an appeal under Section 100 of the CPC, is strictly confined to the case involving substantial question of law and while deciding the second appeal under Section 100 of the CPC, it is not permissible for the High Court to reappraise the evidence on record and interfere with the findings recorded by the Courts below and/or the First Appellate Court and if the First Appellate Court has exercised its discretion in a judicial manner, its decision cannot be recorded as suffering from an error either of law or of procedure requiring interference in Second Appeal.”

Learned counsel for the appellant, is unable to point out any question of law much less a substantial question of law which may be involved for consideration in this regular second appeal. Both the learned Courts below, after proper appreciation and consideration of the evidence on record have, returned concurrent findings vide impugned judgements, which call for no interference.

No other argument has been raised.

Application under Order 41 Rule 27 read with Section 151 CPC for production of additional evidence by placing on record copy of the

registered sale deed no. 144 dated 12.04.2010, is completely devoid of any merit. Application is accordingly dismissed.

Keeping in view the facts and circumstances as discussed above, impugned judgments and decrees dated 13.09.2017 and 03.08.2018 passed by the learned Additional Civil Judge (Sr. Division) Samalkha and learned Additional District Judge, Panipat, respectively, are upheld.

Present appeal is, consequently, dismissed with no order as to cost. Needless to say, the appellant, if so advised, would be at liberty to recover the amount from his father, in accordance with law.

05.11.2019
s.khan

[LISA GILL]
Judge

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