

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

RSA No.2239 of 1992 (O&M)
Date of decision: 19th February, 2020

Haryana State Electricity Board & others

... Appellants

Versus

Niranjan Singh (deceased) through LRs

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Adarsh Jain, Advocate for the appellants.

Mr. Arun Sharma, Advocate for the respondents.

FATEH DEEP SINGH, J.

The short point that has arisen in this regular second appeal of then Haryana State Electricity Board (now denoted as Uttar Haryana Bijli Vitran Nigam Limited) is that where a consumer gets extension of load of a tubewell connection, the electricity charges are to be levied from the date when the load was enhanced or prior thereto?

The plaintiff Niranjan Singh (now respondent) filed against the then defendants (now appellants) a suit on the grounds that he was sanctioned a tubewell connection bearing No.K-2/209 of 7 ½ Horse Power and had been regularly paying the electricity dues from time to time, however with the passage of time the plaintiff applied to the appellant Board for enhancement of the load to 15 HP. The defendant

issued bill No.48 for an amount of ₹ 4594/- on account of non-payment of the electricity dues till 15.06.1986 and a penalty of ₹ 91.90 totalling to ₹ 4685.90. The bill is dated 15.06.1986 when in fact, as is the stand of learned counsel for the two sides, it ought to have been 15.06.1988 and further that this amount has accrued from March 1983 to June 1984 i.e. for a period of 16 months. The resistance to the suit by the defendant Board is on the grounds that the bill of the plaintiff from March 1983 to June 1984 was defective and the audit Party suggested to recover the dues from the plaintiff on the basis of average taken from July 1984 to October 1985 and the difference of the units consumed in-between March 1983 to June 1984 and July 1984 to October 1985 was considered to be 20646 units and out of which deduction of 2471 units was made and out of these units charges for 17875 units were already made on the basis of bill Ex.PA. Therefore, what comes up in the controversy is if the plaintiff was entitled to pay the demand so raised when actually it has already been levied and paid by the consumer?

In view of the recent pronouncement in **‘Kirodi (since deceased) through his LR vs. Ram Parkash & others’ Civil appeal No.4988 of 2019; SLP(C) No.11527 of 2019 decided on 10.05.2019**, the Hon’ble Supreme Court has clearly held under Section 41 of the Punjab

Courts Act, 1918 which has its application to the State of Haryana, that there is no necessity of framing substantial question of law for disposal of an appeal.

Upon hearing Mr. Adarsh Jain, Advocate for the appellants; Mr. Arun Sharma, Advocate for the respondents and perusing the records of the case.

As is well elucidated from the records, for almost 16 months the appellant Board had been sending regular bills to the plaintiff which he was paying and therefore, at a belated stage it would be too preposterous to claim such an amount when there is nothing substantial and cogent to establish the claim of the Board. Even referring the matter to the Arbitrator in terms of Section 34 of the Arbitration Act would be highly inappropriate at this stage when the demand was raised. Even aware of the provisions of Arbitration, the Board never took any objections to the same and participated in the proceedings and now it cannot rake up the plea when it was never taken up in their defense.

Learned counsel for the appellants could not convince this Court and even otherwise accepts the fact that it is from the date of enhancement of the load the charges are to be levied and not from the date when prayer for enhancement was made or the meter was found to

be defective, which was much prior to this enhancement. Learned counsel for the appellant could not bring about any illegality or perversity in the impugned findings necessitating interference by this Court. Finding no merit the present appeal stands dismissed.

(FATEH DEEP SINGH)
JUDGE

February 19, 2020

rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No