

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

RSA-1339-2017 (O&M)

Date of decision : 16.01.2020

Mehar Singh

...Appellant

Versus

Uttar Haryana Bijli Vitran Nigam Limited and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Dr. Naresh Kaushik, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below while dismissing the suit for declaration challenging the order of assessment passed by the authorities under The Electricity Act, 2003.

The plaintiff is having a electricity connection on his tubewell on a flat rate payable by the farmer. Such electric connection is only for agriculture farming. During checking, it was found that the plaintiff had taken a two core PVC wire from the tubewell to his poultry farm. Thus, he was found committing misuse of the electric connection meant only for agriculture farming. Thus, the penalty of ₹28,969/- was imposed.

The plaintiff filed the suit challenging the aforesaid order of assessment of penalty. Only, the plaintiff himself appeared in evidence.

There was no corroboration to his evidence.

On the other hand, Electricity Department had produced three witnesses, in order to prove their case that the plaintiff was found indulging in misuse of the electricity from electric connection meant for tubewell to be used for irrigation of agriculture land exclusively.

On the basis of the aforesaid evidence, both the Courts have recorded concurrent findings of fact, dismissing the suit filed by the plaintiff.

Learned counsel for the appellant has submitted that the Electricity Department had also registered a criminal case against the appellant in which he has been acquitted. Hence, he submitted that the misuse of the electricity is not proved.

This Court has considered the submissions. However, find no substance therein. A judgment passed by a Criminal Court is not binding upon the Civil Court and vice-versa. In criminal case, standard of proof to establish guilt of accused is required to be beyond the shadow of reasonable doubt whereas the standard of proof required to prove a civil suit is 'preponderance of evidence'. Still further, as noticed above, the defendants have examined three witnesses i.e. DW1 Mahender Singh, Assistant Foreman, DW2 Naresh Kumar, Junior Engineer and DW3 Dinesh Sharma, Sub Divisional Officer. Apart therefrom, checking report, communication to the SHO, a photocopy of the Assessment Register, have been produced.

In view of the aforesaid overwhelming evidence, the Courts

have held that the plaintiff has failed to establish his case while failing to point out violation of the provisions of the Electricity Act or principles of natural justice.

The plaintiff-appellant was present when the checking team visited the premises. The plaintiff has also signed on the checking report.

In view of the aforesaid facts, there is no ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Accordingly, the present appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

16.01.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No