

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

**CM-4960-4961-C-2021 in/and  
RSA- 1130-2021 (O&M)  
Date of decision: 11.11.2021**

Balkar Singh

...Appellant

Vs.

SDO UHBVN Sub division and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

**Present:** Mr.Rajneesh Gupta, Advocate,  
for the appellant.  
(Presence marked through video conference).

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**ARUN MONGA, J. (ORAL)**

**CM-4960-C-2021**

This is an application seeking condonation of delay of 83 days  
in filing the appeal.

For the reasons stated in the application, the same is allowed, as  
prayed for. Delay stands condoned.

**Main case**

For convenience, parties herein are described as per recitals  
before the trial Court.

2. Having suffered concurrent adverse findings by the two Courts  
below, the plaintiff is in second appeal before this Court assailing the trial  
Court judgment and decree dated 14.09.2017, as upheld by the learned First  
Appellate Court vide its judgment and decree dated 04.10.2019.

3. Briefly stated, facts as noticed by Courts below are that the plaintiff is having a domestic electric connection bearing account No.JS14/5177 installed at his premises. He is regularly making the payment of electricity dues without any default. On 22.08.2015, the officials of the defendants visited the premises of the plaintiff and forcibly checked the meter in his absence as well as his wife. Thereafter, on 24.08.2015, the plaintiff received two letters vide which, the defendants raised illegal demand of Rs.60,517/-regarding theft of energy. The plaintiff approached the defendants, but they pressurized the plaintiff to deposit the said amount and also threatened to disconnect the electricity connection and also to file a criminal case against him if the said amount is not deposited. It is further averred that the aforesaid memos are illegal, null and void as the same have been issued without notice and the alleged checking was done in the absence of the plaintiff and, therefore, the same are not binding upon his rights.

4. Based on the rival pleadings, following issues were framed:

- 1. Whether alleged checking report dated 22.08.2015 and Memos No.688 and 689 dated 24.08.2015 vide which penalty amount of Rs.60,517/- is imposed, is null, void and liable to be set aside, if so, to what effect? OPP.*
- 2. If issue No1 is proved in affirmative, whether plaintiff is entitled to decree for declaration with consequential relief of permanent injunction as prayed for? OPP.*
- 3. Whether the suit is not maintainable in present form? OPD.*
- 4. Whether the plaintiff has no locus standi to file the present suit? OPD.*
- 5. Whether plaintiff is estopped from filing the present suit by his own act and conduct? OPD.*
- 6. Whether the suit is bad on account of mis-joinder or non-joinder of necessary parties? OPD.*
- 7. Whether the plaintiff has no cause of action to file the present suit? OPD.*

*8. Whether the plaintiff has not come to this Court with clean hands and has concealed the true and material facts from this Court and not entitled to relief as prayed for? OPD.*

*9. Relief.*

5. The parties to the suit adduced their oral as well as documentary evidence in support of their pleadings and to discharge their respective onus as per the issues, *ibid*.

6. On appraisal of evidence vis-a-vis pleadings, issues No.1 and 2 were decided against the plaintiff. Issues No. 3 to 8 were decided against the defendants and the suit of the plaintiff was dismissed.

7. First Appellate Court dismissed the appeal, hence Regular Second Appeal before this Court.

8. I have heard the learned counsel and perused the judgments of both the Courts below. To my mind, judgments under challenge have been rendered after due and correct appreciation of evidence adduced by the respective parties. Relevant part of First Appellate Court judgment, with which, *inter alia*, I am in agreement, is as below:

XXX

XXX

*“17. The appellant-plaintiff has challenged memos No.688 and 689 dated 24.08.2015 mainly on the ground of fraud and mis-representation, but no such evidence is placed on the file. The appellant-plaintiff had also remedy either to deposit the penalty amount under protest or can challenge the impugned notice before the Consumer Disputes Redressal Forum or higher authorities, as per law. The alleged checking report Ex.P1 and subsequent memos Ex.P2 and Ex.P3 were not challenged nor brought to the notice of the higher authorities of the respondents-defendants/UHBVNL. Presence of the appellant-plaintiff was also recorded and shown in the videography/compact disc Ex.D1. Checking report Ex.P1 also bears the signatures of the appellant-plaintiff. Nothing has been brought on record by the appellant-plaintiff to show that officials of UHBVNL were inimical to falsely implicate him in the case of theft of electric energy.*

*The statement of plaintiff Balkar Singh (PW4) himself is very material. He stated in opening line of his cross-examination that he is consumer of electric connection No.JS14/5117. Electric meter is installed outside the gate of his house. He along with his wife is residing in his house. He has no knowledge that checking of his house was conducted by the officials of UHBVNL or they had made checking of some other house. He never had any dispute with the officials of UHBVNL. He received letter from UHBVNL to deposit the amount of electricity theft, but he has not filed any complaint to the higher authorities. He never filed any application to the Electricity Department. No case regarding theft of electricity is pending against him. Officials of UHBVNL have never visited his house after electric meter was checked in his house.*

*The appellant-plaintiff also examined two other witnesses i.e. PW1 Paramjit Singh and PW2 Amar Singh. PW1 Paramjit Singh stated that he is neighbour of the appellant-plaintiff and his house is situated just in front of the house of the appellant-plaintiff at a distance of about 100 feet. He admitted that officials of Electricity Department had visited the house of the appellant-plaintiff at about 4:00/5:00 p.m. in the evening. 7-8 persons had come on a vehicle. No other person except Balkar Singh and his wife was present in his house. Officials stayed there for 5-10 minutes and after taking photographs, they went away. He along with Amar Singh, Balkar Singh and their wives were present at the spot, however, his signatures were not taken by the officials of UHBVNL.*

*PW2 Amar Singh stated that he is neighbour of the appellant-plaintiff. His house is situated about 100 feet away from the house of Balkar Singh (appellant-plaintiff). House of Balkar Singh is situated in front of Gurudwara. He also admitted that officials of UHBVNL had come on 22.08.2015 in the evening at about 4:00/5:00 p.m. on a vehicle. They had parked their vehicle on the backside of the Gurudwara and came to the house of Balkar Singh. He was also present near the house of Balkar Singh at that time. 2-3 other ladies had also come in the house of Balkar Singh. Paramjit Singh had also come at the spot. He was passing through the street and stopped there. He had seen the officials of UHBVNL. He was present there when JE (Junior Engineer) had opened the gate of the house of Balkar Singh. They had checked the meter. The meter was installed in the verandah of the house.*

*PW3 Baljit Kaur was not present at the time of alleged checking in their house. So, her statement is not much helpful to the case of the appellant-plaintiff.*

*Thus, the memos were challenged by the appellant-plaintiff mainly on the ground that the checking was made in his absence, which stands contradicted/falsified by his own evidence. His own witnesses have admitted his presence at the spot; visit of officials of UHBVNL and; checking of electric*

*meter installed in his premises. Photographs were also taken. Moreover, the signature of the appellant-plaintiff is also there on the checking report Ex.P1. The appellant-plaintiff was found committing theft of electricity by using PVC wire for bypassing the electric meter. Therefore, penalty was rightly imposed by the respondents-defendants/UHBVNL. The mode of assessment is also mentioned in the impugned memos. The learned trial Court has properly appreciated all these facts and evidence and arrived at a right conclusion. Therefore, the findings recorded by the trial Court call for no interference and are hereby affirmed.*

*18. Consequently, the present appeal is hereby dismissed with costs.”*

9. There seems no perversity or illegality in the concurrent findings of facts returned by the Courts below. No interference is thus called for to disturb the said concurrent findings. In this second appeal, no fresh ground worthy of interference is made out.

10. Furthermore, no question of law, much less substantial one, a sine qua non for entertaining regular second appeal, is involved herein, for exercise of appellate jurisdiction of this Court under Section 41 of the Punjab Courts Act read with Section 100 of Civil Procedure Code.

11. In view of my discussion above and the reasons aforesaid, this appeal is dismissed, being bereft of any merit. Resultantly, both the impugned judgments and decrees passed by learned Courts below are upheld.

12. Pending application/s, if any, shall also stand disposed of.

13. No order as to costs.

**11.11.2021**  
vandana

**(ARUN MONGA)**  
**JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No