

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

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RSA No.423 of 2021 (O&M)

Date of decision: 19.08.2021

DAKSHIN HARYANA BIJLI VITRAN NIGAM AND ANR

..Appellants

Versus

M/S POLYPLASTICS AUTOMOTIVE INDIA PVT. LTD. ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Baldev Raj Mahajan, Sr. Advocate with
Mr. Madhur Singh, Advocate and Ms. Nikita Goel, Advocate
for the appellants.

ANIL KSHETARPAL, J (Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

CM-2409-C-2021

For the reasons stated in the application, delay of 17 days in filing the appeal is condoned.

Main Case

The defendants (appellants herein) assail the concurrent finding of fact arrived at by the Courts below while decreeing the suit for declaration that the demand of Rs.34,25,366/- by the defendants is illegal. The plaintiff claims that he had deposited an amount of Rs.19,70,774/- in April, 2012 towards the bill raised for the month. In May, 2012, the audit party added an amount of Rs.66,209/- which was subsequently deleted in the month of June, 2012. The plaintiff deposited Rs.21,87,063/- in the month of April. Thereafter, the plaintiff deposited a sum of Rs.18,34,190/- in the month of June. However, in the month of September, the outstanding amount was shown to be Rs.68,91,433/- which was subsequently corrected to Rs.29,33,683/- after the plaintiff filed an objection.

The defendants contested the suit by filing a written statement.

However, the reasons for demanding the amount of Rs.34,25,366/- were not disclosed.

The defendants further did not examine any witness. The defendants further failed to furnish any justification for adding Rs.34,25,366/- even at the time of leading evidence. Keeping in view the aforesaid facts, both the Courts decreed the suit, Mr. Baldev Raj Mahajan, learned Advocate General, Haryana, has submitted that no doubt, the defendants failed to furnish any material to justify the addition, however, keeping in view the fact that the plaintiff is a large supply consumer having a sanction load of 300 kw., they are required to be given another opportunity to file a detailed written statement and thereafter lead evidence.

This Bench has considered the submissions, however, find no substance therein. The appellants have not filed an application either for permission to amend the written statement or for leading additional evidence. Still further, in regular second appeal, a public sector undertaking cannot furnish fresh explanation as a matter of right.

Keeping in view the concurrent finding of facts, this Bench is of the considered view that no ground to interfere with the impugned judgments is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

19.08.2021

ashok

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)

JUDGE