

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

Sr. No.115

CR-576-2022 (O&M)

Date of decision : 22.02.2022

Purshottam Mintri

..... Petitioner

VERSUS

Dakshini Haryana Bijli Vitran Nigam and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. B.S. Mittal, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

The petitioner had filed a suit for declaration that memos dated 13.10.2017 issued to him demanding a sum of Rs.4,13,545/- and compounding fee of Rs.40,000/- were illegal and void. Consequent relief of mandatory injunction was sought directing the defendants to re-install the meter.

The suit has been dismissed by the special Court established under the Electricity Act, 2003.

Learned counsel for the petitioner has drawn my attention to paragraph No.26 of the impugned judgment to argue that the procedure prescribed by law was not followed in this case. He has also drawn my attention to checking report LL-1 No.633 dated 05.10.2017 as well as memo dated 13.10.2017 to submit that theft was never found on the date of checking. Accordingly, the Courts below have erred in dismissing the suit.

The checking report LL-1 No.633 dated 05.10.2017 records as under:-

‘Further checking meter one phase heated. Removed and packed into card board box with paper sealed duly signed by consumer and checking staff. Meter refer to lab for verification for meter working, body seal etc.’

Thereafter, memo dated 13.10.2017 was issued, wherein, the following observation exists.

‘Your premises was checked by checking team detailed below LL-1 No.633/24 dated 05.10.2017 at the time 14:15:00 Hrs. During above inspection the following act(s) of Theft/dishonest use of electricity was noticed Meter Tempering. Hence, it is a case of theft of energy with the load of 11.14 for DS purpose.’

These documents alongwith paragraph No.26 of the judgment show that after the inspection was done on 05.10.2017, the petitioner was directed to come present on 12.10.2017 to witness the inspection of the meter. He did not do so and thus, the inspection was carried out in his absence. Tampering with the meter was found resulting in issuance of notice dated 13.10.2017.

In view of above, it is evident that the procedure prescribed by law had been followed. The argument that theft was not found on 05.10.2017 is misconceived.

It is next contended that Clause 12 of instructions issued vide Sales Circular dated 16.06.2017 makes it clear that broken seals would not be a case of theft of electricity. Clause 16 of the same circular provides that unless and until an artificial means of abstraction of electricity has been found, there is no case of dishonest extraction of electricity.

The judgment impugned records that the petitioner had made a wrong/false averment that he was residing in Kalimpong, West Bengal. A finding of fact has been returned that there is no evidence that he or his family resided in some other State. The electricity bills Ex.P-4 to P-6 and Ex.P-9 to P-14 have been found to be incorrect and the reduced consumption recorded therein is on account of tampering with the meter. Clause 12 referred to hereinabove comes with a rider that despite a case being one of broken seals, if consumption pattern corroborates theft, such a finding can be given. Here, there is evidence in the form of consumption pattern and thus, the argument based upon Clause 12 is rejected.

Clause 16 relied upon by learned counsel for the appellant is not attracted in this case.

Judgment of the Supreme Court in Ram Chandra Prasad Sharma and others Vs. State of Bihar and another, AIR 1967 (SC) 349 is distinguishable on facts.

The revision petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

22.02.2022
Ramandeep Singh