

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 944 of 2020 (O&M)

Date of Decision: 14.03.2022

Uttar Haryana Bijli Vitran Nigam Limited and Others

... Appellant(s)

Versus

Dayawanti

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. R.S.Longia, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. The appellants are the defendants in a suit for grant of decree of declaration, filed by the plaintiff (the respondent herein), claiming that the notice of assessment of the electricity dues dated 23.04.2014 as also the checking report dated 29.03.2014 are illegal and not binding on her rights. The entire dispute, in the present case, is with respect to the amount of ₹30,166/-. The plaintiff was a consumer of electricity with a sanctioned load of 5.2 KW at her residence. It is the case of the plaintiff that her premises was checked on 29.03.2014 and the seals put on the electricity meter, were found in proper order. However, she was forced to pay ₹30,166/-, as the appellants threatened to register a criminal case against her.

2. The defendants contested the suit with the assertion that the assessment was carried out in accordance with law and the electricity consumer meter, on checking in the Meter Testing Lab, was found that the current coil was not of adequate size.

4. Both the Courts below, on appreciation of the evidence, have concurrently recorded a finding that the plaintiff was not given a notice before testing the electricity consumption meter in the Meter Testing Lab. In fact, DW.1-Chabbil Dass, an official of the Electricity Supply Company, admitted that fact. It was further found that the seals affixed by the officials of the electricity supply company on the electricity consumption meter, were intact and not tampered with as per the checking reports (Ex.D4 and Ex.D7).

5. Furthermore, both the courts below held that there was no material to suspect theft of energy.

6. The learned counsel representing the appellant has submitted that the Civil Court has no jurisdiction to entertain and decide such suit and the plaintiff is estopped from assailing the correctness of the assessment made, after submitting an application for compounding and deposit of the amount.

7. With regard to the first argument, it would be noted that before the Courts below, the defendants did not object to the maintainability of the suit. There is no issue with regard to the jurisdiction of the Civil Court. The attention of the Court has not been drawn to any statutory provision, which absolutely bars the jurisdiction of the Civil Court.

8. With regard to the second argument, it would be noted that the defendants have not changed their position on the representation of the plaintiff, which may enable the defendants to take up the plea of estoppel. The plaintiff was slapped with a notice to deposit ₹30,166/- including the penalty of ₹12,000/-, failing which a criminal case will be registered. The plaintiff, in order to save her skin from the criminal proceedings as well as

disconnection, deposited the amount. In such circumstances, the plaintiff cannot be estopped from challenging the order of assessment. There is a categorical finding of facts, arrived at by both the Courts below that the seals of the electricity consumption meter were found intact and the plaintiff was not given any notice before testing the electricity consumption meter in the Meter Testing Lab.

9. In view of the above, no ground is made out to interfere. Hence, the present appeal is dismissed.

10. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 14, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No