

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-2647-2019 (O&M)
Date of decision:03.03.2022

M/S R. D. RICE MILL

...Petitioner

Versus

UTTAR HARYANA BIJLI VITRAN NIGAM LTD.
AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sunil Chadha, Sr. Advocate, with
Mr. Aditya Jain, Advocate, and
Ms. Swati Verma, Advocate, for the appellant.

ANIL KSHETARPAL, J (Oral)

This Bench has heard the learned senior counsel at length and with his able assistance perused the paper book.

The plaintiff assails the correctness of the concurrent findings of fact arrived at by the Courts below while dismissing his suit for grant of decree of declaration with consequential relief of mandatory injunction.

The plaintiff claims that the order of assessment alleging theft of energy is illegal. The appellant is a consumer of an electricity.

It is the case of the respondents that on 03.09.2013, when the premises was inspected, it was found that the plaintiff was drawing the electricity supply directly with the help of four core cables, 16mm², approximately three meters, black in colour, from LT fuse system of 100KVA Transformer, installed outside the premises of the plaintiff.

The learned senior counsel submits that there are two different circulars providing for the manner in which the assessment is to be made. He submits that one circular provides for calculation of charges on the basis of the sanctioned load, whereas under a different circular, it is provided that

the charges shall be calculated on the basis of actual load being utilized by the consumer at the time of theft.

After arguing for some time, the learned senior counsel prays for permission to withdraw the present appeal with liberty to submit a representation to the authorities in this regard. However, he submits that the respondents be requested to decide the matter without being influenced by the judgments passed by the Courts below.

From the stand of the learned senior counsel, it is evident that the appellant does not dispute the correctness of the findings of the fact arrived at by the courts below with regard to the theft of the energy. The only question which remains is as to what should be the manner of the calculation of charges and the penalty?

The appellant is stated to have already deposited the amount.

Keeping in view the aforesaid facts, the appeal is dismissed as withdrawn with liberty to the appellant to file a representation for revising the assessment in accordance with the applicable circulars. It is observed that the respondent-electricity supply company will consider the representation without being influenced by the findings of the courts below.

Since, this order has been passed without issuing a notice, therefore, the respondent-electricity supply company shall have the liberty to file an application for recall, if so advised.

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

March 03, 2022
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No