

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Regular Second Appeal No.1759 of 2022

Date of Decision: November 18, 2022

Sub Divisional Officer Operation, Operation Sub Division City, Dakshini
Haryana Bijli Vitran Nigam, Jind.

...Appellant.

Versus

Smt.Saroj Rani

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Madhur Singh, Advocate,
for the appellants.

MANOJ BAJAJ, J.

Appellants (Defendants) have preferred this regular second appeal to challenge the judgment and decree dated 24.05.2022 passed by the District Judge, Jind in Civil Appeal No.14 of 2017, whereby it has affirmed the judgment and decree dated 20.12.2016 passed by the Civil Judge (Junior Division), Jind in Civil Suit No.296 30.11.2016, decreeing plaintiff's suit for declaration and mandatory injunction.

Briefly stated, the facts of the case as per the plaint are that plaintiff instituted a suit for declaration and mandatory injunction with the averments that meter account No.GG11-0053 installed in the name of one Murli Dhar Singla son of Jagan Nath Singla, resident of House No.208/5, Gandhi Nagar, Jind and she had purchased the said house from him vide sale deed dated 28.10.2005 and since then she is in possession of the house. The meter installed in the house is being used by the plaintiff and she has been paying the electricity bills regularly, however, the aforesaid meter has

been shifted by the defendants on a pole nearby the residential house of the plaintiff, but on account of fall of the pole, the meter was burnt and jumped the reading. She moved an application on 09.03.2015 before the defendants for replacement of meter and vide report dated 09.03.2015, defendants declared that the seals of the meter were intact. On receipt of the checking report, defendants changed the meter and also included Rs.46,784/- in the consumption bill which was to be paid on 14.03.2015. Plaintiff claimed the act of the defendants as illegal, null, void and liable to be rectified. Further, the bill was increased to Rs.24,923/- to be deposited upto 25.05.2015. According to plaintiff, the inclusion of aforesaid amount is not tenable as she is not at fault, because the meter after removal from the site was not packed and sealed as per rules with the signatures of the plaintiff, therefore, if there is any testing report, the same is also illegal, null and void.

The claim of the plaintiff was contested by defendants by way of filing a written statement, who raised all kinds of preliminary objections relating to the maintainability of the suit and on merits, it is averred that plaintiff has made up a false story regarding fall of electricity pole. As per record of the defendants, there was no complaint regarding fall of pole as alleged by plaintiff. The reading shown by the meter is correct and the same can only be possible due to pressure of load put on by the consumer on the meter. On receipt of the application from the plaintiff, investigation was done and it was found that the meter was working properly. Meter seals were found intact and block of the meter was burnt, which cannot reflect the recording in any manner.

After completion of pleadings of the parties, the civil Court framed in all four issues, and thereafter, the parties adduced their respective

evidence and considering the same, the Civil Judge (Junior Division), Jind vide judgment and decree dated 20.12.2016 proceeded to decree the suit.

Aggrieved against the said judgment and decree dated 20.12.2016, the appellants/defendants preferred appeal before the District Judge, Jind, but the same was dismissed by way of impugned judgment and decree dated 24.05.2022. Hence this regular second appeal.

Learned counsel for the appellants has argued that after removal, the meter was sent to M&T Lab, Hisar for testing and to satisfy the consumer regarding functioning of the meter, the department had sent a copy of first and final notice seeking presence of the plaintiff, but the same was returned back with an endorsement made by husband of the plaintiff that he has no objection, if, the electric meter is checked in his absence. He has further argued that as per the testing lab report dated 23.04.2015, the result of checking was found to be within permissible limit. The meter was showing correct readings as per the consumption of electricity by the consumer in view of the sanctioned load of 6 KV, therefore, the plaintiff is under legal obligation to deposit the electricity bills based on the true consumption of energy. Learned counsel has argued that both the courts have failed to appreciate the evidence on record properly, therefore, interference is called for by this court.

After hearing the learned counsel, considering the pleadings of the parties and evidence on record, this court finds that there is no force in the argument raised by the learned counsel for the appellants as their own witness, namely, Surender Sharma, CA DW-1 has categorically stated that when the electric meter was checked in M&T Lab, Hisar, the same was found in working condition and the seals were intact. No responsible person

from the appellants' department has come forward to depose that he was either present at the time when the meter was checked or when the same was removed and changed. The impugned judgments passed by the Civil Judge (Junior Division), Jind as well as first Appellate Court reveal that the concurrent findings of fact returned on the material issues are based upon proper appreciation of the evidence.

As a result of this discussion, this Court is of the opinion that the appeal does not involve any substantial question of law and is devoid of merits.

Resultantly, the appeal fails and is dismissed.

November 18, 2022
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No