

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

206

RSA-1362-1990 (O&M)

Date of decision: 15.11.2023

Punjab State Electricity Board and Others

...Defendant-appellants

Versus

Punjab Water Supply and Sewerage Board

... Plaintiff-respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Deep Inder Singh Walia, Advocate for the appellants.

None for the respondent.

AMAN CHAUDHARY. J.

1. Challenge in the present regular second appeal is filed to the concurrent findings of facts returned by both Courts below in favour of the plaintiff-respondent in a suit filed by him for declaration and permanent injunction.

2. Learned counsel contends that the plaintiff-defendant had unauthorisedly installed motors, which connected to the electric system, thus the recovery of surcharge, being Rs.73,732.25 p was totally valid but the Courts below have committed error by decreeing the suit.

3. Heard and perused the record.

4. The suit for declaration and permanent injunction filed against the Punjab State Electricity Board by the plaintiff-respondent was decreed on the ground that no cogent or convincing evidence was produced on record to establish that the load connected was in excess to the sanction. A

circumstance of not using excess load was rightly found to be the repeated

requests made by the plaintiff Board for extension of load for running treatment plant and other water works. The learned Appellate Court, also having evaluated the material on record, came to affirm the judgment and decree by holding that a false report regarding the motors being connected, was submitted by Sukhmander Singh, DW-1, who had stated in his cross-examination that Virpal Singh, SDO, was present during the inspection, however, he was neither shown the motors nor the said report. Since it came up in evidence that the motors were not running at the time of inspection, though were lying ready for operation, hence, the conclusion was correctly drawn by the Courts below that they were not connected, thus, there being no excess load, the surcharge was not leviable.

5. In **Satyender vs. Saroj**, 2022 SCC OnLine SC 1026, Hon'ble the Supreme Court has held that, "Be that as it may, though the requirement of formulation of a substantial question of law was not necessary, yet Section 41 of the Punjab Courts Act, requires that only such decisions are to be considered in second appeal which are contrary to law or to some custom or usage having the force of law or the court below have failed to determine some material issue of law or custom or usage having the force of law. Therefore, what is important is still a "question of law". In other words, second appeal is not a forum where court has to re-examine or re-appreciate questions of fact settled by the Trial Court and the Appellate Court".

6. Upon a careful consideration of this matter, it is found that the lower appellate Court as well as the trial Court have examined and sifted through the evidence before recording their respective findings and arrived at a judicious conclusion. No misreading or ignoring of evidence could also be pointed out.

of law involved nor the impugned judgments and decree suffer from any infirmity or illegality, as such, the present appeal fails and is hereby dismissed.

(AMAN CHAUDHARY)
JUDGE

15.11.2023

M.Kamra

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