

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

RSA-1791-1991

Date of Decision: 21.9.2023

The Haryana State Electricity Board, Haryana, Chandigarh and others

....Appellants

VERSUS

Paras Ram

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present : Mr. Anil Chawla, Advocate,
for the appellants.

KARAMJIT SINGH, J.

Present appeal has been filed by the appellants/defendants against the judgment and decree dated 15.2.1991 passed by the Court of Additional District Judge, Narnaul whereby the appeal filed by the respondent/plaintiff against the judgment and decree dated 18.8.1988 passed by the Court of Additional Senior Sub Judge, Narnaul was allowed and the suit filed by the respondent/plaintiff was decreed and the appellants-defendants were restrained from charging rate of SP connection in place of rate of AP connection from the respondent/plaintiff with liberty to the appellants/defendants to issue proper and legal notice to the respondent/plaintiff as per law and then to take further action to charge rate of SP connection from the respondent/plaintiff.

2. Brief facts of the case of the respondent/plaintiff are that the he got electricity connection No.H635AP for agricultural purposes in 1969 and he installed pumping set in his well. In the month of July, 1973, the number of the said electric connection was changed from H635AP to M343AP and thereafter, it was further changed to X-185 AP in July, 1976 and thereafter,

it was changed to X-185SP by the appellants/defendants in November, 1979; that before doing so, no notice was issued to the respondent/plaintiff by the appellants/defendants regarding the change of nature of the connection from agricultural purposes to small power (SP) connection. The respondent/plaintiff never used his AP connection for any other purpose than agricultural purposes. However, the appellants/defendants started charging consumption charges of electricity @ SP connection in place of AP connection, on which, the respondent/plaintiff filed the suit.

3. The suit was contested by the appellants/defendants and they filed written statement wherein it was admitted that originally, the electric connection No.H635AP was sanctioned in favour of the respondent/plaintiff in 1969; that later on, the said electric connection installed for agricultural purposes was changed to SP connection as it was being used by the consumer for supply of water to his cement pipe factory; that the respondent/plaintiff had been regularly paying charges of SP connection and never raised any objection regarding the change of nature of the electric connection from AP to SP. In the month of January, 1980, a bill was sent to the respondent/plaintiff in which difference of rates between AP and SP connections was charged from April, 1979 to August, 1979 and payment of the said bill was made by the respondent/plaintiff on 15.1.1980 without raising any objection. The appellants/defendants also took preliminary objection that the suit is not maintainable and is time barred. The other averments of the plaint were denied being wrong.

4. The respondent/plaintiff filed replication controverting the averments made by the appellants/defendants in their written statement.

5. On the pleadings of the parties, following issues were framed

by the learned trial Court : -

1. Whether the defendants are demanding more money than due as alleged? OPP
 2. Whether the plaintiff is entitled to the injunction as prayed for? OPP
 3. Whether the connection of the plaintiff was for agricultural purposes as alleged? OPP
 4. Whether the suit of the plaintiff is not maintainable in the present form? OPD
 5. Whether the suit is time barred? OPD
 6. Whether no cause of action has accrued to the plaintiff to file the suit? OPD
 7. Whether the plaintiff has no locus standi to file the suit? OPD
 8. Whether the suit of the plaintiff is false and frivolous? OPD
 9. Relief.
6. The respondent/plaintiff himself appeared in the witness box as PW1 and proved documents Ex.P1 to Ex.P48 and Ex.PA/1 which also includes monthly bills and their receipts.
7. On the other hand, counsel for the appellants/defendants examined DW1-Julfi Ram, Foreman, DW2-Hans Raj Reader to SDO, DW3-Hari Ram, Assistant SDC and placed on record document Ex.DW3/1 and Ex.DW3/2. The respondent plaintiff called PW2-Hari Ram in rebuttal evidence.
8. After hearing counsel for the parties, learned trial Court

decided all the issues against the respondent/plaintiff and in favour of the appellants/defendants and dismissed the suit vide judgment and decree dated 18.8.1988.

9. Being aggrieved, the respondent/plaintiff filed appeal which was allowed by the Court of Additional District Judge, Narnaul and the said Court decreed the suit of the respondent/plaintiff as has been detailed in the opening paragraph of this judgment.

10. The appellants/defendants being not satisfied by the judgment passed by the first appellate Court, have filed the present appeal.

11. I have heard the counsel for the appellants/defendants and gone through the record of the learned trial Court.

12. Counsel for the appellants/defendants, while supporting the judgment dated 18.8.1988 passed by the learned trial Court, submits that well reasoned judgment passed by the learned trial Court, has been wrongly set aside by the first Appellate court. He further submits that the respondent/plaintiff made payment of the bill in question on 15.1.1980 without raising any objection; that, however, the respondent/plaintiff being aggrieved by the said bill, filed civil suit in 1986 i.e. after gap of 6 years and the said suit is clearly time barred as was rightly held by the learned trial Court. It is further contended that even otherwise, no cause of action accrued to the respondent/plaintiff in the year 1986 to file the suit as he had already made payment of electricity charges in January, 1980 without raising any protest against the said demand raised by the appellants/defendants. So, prayer is made that the present appeal be allowed and the judgment passed by the learned trial Court be restored.

13. There is no representation on behalf of the respondent/plaintiff

on the last date of hearing and even today, none appeared on behalf of the respondent/plaintiff.

14. I have considered the submissions made by the counsel for the appellants/defendants.

15. Admittedly, in the present case, electricity connection bearing No.H635AP was issued in the name of the respondent/plaintiff for agricultural purposes in 1969. No request was ever made by the respondent/plaintiff to change the said connection from agricultural purposes to small power (SP) connection. It appears that the department converted the said AP connection into SP connection just on the ground that the said electric connection was used by the respondent/plaintiff for supply of water to his cement pipe factory. However, before doing so, no notice or opportunity of hearing was given to the respondent/plaintiff by the appellants/defendants and thus, conversion of AP connection to SP connection was in breach of the principles of natural justice. The basic object of principle of natural justice is to ensure fairness and also to protect an individual against arbitrary actions of the Government functionaries. Even applications Ex.P6 to Ex.P8 submitted by the respondent/plaintiff to the appellants/defendants were not taken into consideration by the department to rectify above said illegality. Thus, in the present case, there was gross violation of the principles of natural justice on the part of the appellants/defendants before the electric connection of the respondent/plaintiff was changed from AP connection to SP connection which was having higher tariff than AP connection.

16. From the perusal of the record of the learned trial Court, it is evident that last electricity bill Ex.P9 claiming SP charges was issued by the

appellants/defendants on 6.5.1986 and immediately thereafter, the suit was filed by the respondent/plaintiff on 5.6.1986. So, the appellants/defendants have failed to prove that the suit is time barred.

17. Further, in view of the matter as no notice was ever served and even no opportunity of hearing was granted to the respondent/plaintiff before issuance of the concerned electricity bills whereby tariff as per SP connection was claimed instead of that of AP connection, the first Appellate court rightly held that in case the appellants/defendants intend to do so, they are at liberty to issue a proper notice to the respondent/plaintiff and then to take further action in this regard.

18. No other point has been urged in the present appeal.

19. In light of above discussion, this Court is of the view that there is no illegality or infirmity in the judgment dated 15.2.1991 passed by the Court of Additional District Judge, Narnaul. No question of law muchless substantial question of law has arisen in the present appeal for consideration of this Court.

20. Consequently, the present appeal is dismissed being devoid of merits.

(KARAMJIT SINGH)
JUDGE

September 21, 2023
Paritosh Kumar

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