

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

RSA-2591-2015(O&M)

Reserved on:-26.4.2023

Date of Pronouncement:-5.5.2023

M/s Pammi Rice and General Mills, Goniana and another

...Appellants

Versus

Punjab State Power Corporation Ltd. and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Rajan Bansal, Advocate
for the appellants.

Ms.Meena Bansal, Advocate
for respondents No.1 and 2.

H.S. MADAAN, J.

1. Briefly stated, facts of the case are that plaintiffs Punjab State Electricity Board (hereinafter referred to as PSEB) through its Executive Engineer City Division, Bathinda and its AEE Operation Sub Division, PSEB, Goniana had brought a suit for recovery of Rs.2,15,830/- against defendants i.e. M/s Pammi Rice Mills, Goniana through its Managing Director Surinder Kumar as well as its Directors, namely, Surinder Kumar, Avtar Singh and Gurtej Singh, on the averments that the defendant No.1 had applied for grant of large supply electric connection

for running a rice sheller at G.T. Road, Goniana and the same was sanctioned to it on completion of necessary formalities; the connection bearing account No.LS/4 was released on 19.10.1998; defendant No.1 started consuming the electricity energy making the payment of consumption charges, which it did up to 2/99 payable by March 1999; thereafter, the defendant defaulted in making the payment of charges for electricity consumed; the defendant had issued a cheque No.822469 dated 24.12.1998 for Rs.1,26,017/- for clearing electricity charges due in December, 1998, however when the cheque was presented for encashment, it was dishonoured; though the defendant consumer was in arrears of consumption charges, however on its request and undertaking to pay the outstanding amount, it was allowed to use the electricity energy on the understanding that dues would be cleared within three months, but it was not so done; ultimately permanent disconnection was carried out after overhauling account of the defendant No.1 and by adjusting security amount of Rs.50,475/-; the outstanding amount was worked out to Rs.2,15,830/-, which the plaintiffs were entitled to recover with interest @ 18% per annum as per rules framed on the subject. When the defendants did not make the payment despite repeated requests, the suit in question was filed.

2. On being given notice, only defendants No.1 and 2 put in appearance and filed joint written statement, whereas defendants No.3 and 4 did not appear despite service, as such they were proceeded against ex-parte.

3. In the joint written statement filed by them defendants No.1

and 2 they had taken up several objections that the suit had not been filed against proper person as Pammi Rice Mills was not a company and Surinder Kumar was not its Managing Director; Pammi Rice Mill firm had been dissolved after death of Pawan Kumar and thereafter no such firm was in existence; the suit had been filed on wrong facts and was not within limitation; no amount was due from the defendants to the plaintiffs. According to the answering defendants, they had been paying the electricity bills regularly and they are not in arrears since March 1999 as alleged in the plaint. Issuance of cheque by defendants No.1 and 2 in favour of the plaintiffs was also denied. Refuting the remaining assertions, such defendants prayed for dismissal of the suit.

4. On the pleadings of the parties, following issues were framed:

1. Whether plaintiffs are entitled to recover suit amount? OPP.
2. Whether suit is within limitation? OPP.
3. Whether plaintiffs are entitled to interest, if so at what rate? OPP.
4. Whether suit has not been filed by proper person? OPD.
5. Whether the suit hit by Order 7 Rule 1-J CPC? OPD.
6. Relief.

5. The parties were afforded opportunities to lead evidence in support of their respective claims.

6. During the course of his evidence, the plaintiffs got examined Paramjit Singh, SDO/AEE PSEB as PW1.

In rebuttal the defendants examined Surinder Kumar Monga as DW1.

7. After hearing the learned counsel for the parties, the trial Court of Civil Judge (Sr.Divn.), Bathinda by giving issue-wise findings decreed the suit of the plaintiffs for recovery of Rs.2,15,830/- with interest @ 8% per annum on the principal amount with 6% future interest from the date of decree till its realisation. The liability of defendants to pay this amount was found to be joint and several. This was so done vide judgment and decree dated 25.7.2013.

8. Feeling aggrieved by the said judgment and decree, the defendants No.1 and 2 had filed an appeal in the Court of District Judge, Bathinda, which was assigned to Additional District Judge (Fast Track Court), Bathinda, who vide judgment and decree dated 26.8.2014 dismissed the appeal upholding the judgment and decree passed by the trial Court.

9. Being dissatisfied with the judgments and decrees passed by the Courts below, the defendants No.1 and 2 have filed the present regular second appeal before this Court.

10. Notice of the appeal was given to the respondents and respondents No.1 and 2 have put in appearance through counsel.

11. I have heard learned counsel for the parties besides going through the record and I find that there is absolutely no merit in the appeal.

12. In this case both the Courts below considering the pleadings of the parties and analyzing the evidence brought on record by them in a very detailed and minute manner have come to the conclusion that the defendants are liable to pay the suit amount to the plaintiffs as unpaid

electricity charges for the period 11/98 to 2/99 after adjustment of security amount of Rs.50,475/-. The trial Court had noticed that though no bill had been brought on record but extract of the ledger Ex.P7 and Ex.P8 proved in evidence by the plaintiffs were relied upon to show that the bills for the disputed period had remained unpaid. This fact was also considered that cheque No.822469 dated 24.12.1998 issued by defendants for the sum of Rs.1,26,017/- had bounced on presentation and defendants had not brought any evidence to show that they had paid the electricity charges for the disputed period.

13. The First Appellate Court has also found itself with agreement with the trial Court in that regard.

14. With the concurrent findings having been recorded by the Courts below against the appellants/defendants, which are based on proper appraisal of evidence and correct interpretation of law and there being no illegality or infirmity with the impugned judgments and decrees passed by the Courts below, there is no ground to interfere with such impugned judgments and decrees in regular second appeal.

15. No substantial question of law arises in this appeal.

16. Finding no merit in the appeal, the same stands dismissed.

Since the main appeal is dismissed, the miscellaneous application(s), if any stands disposed of accordingly.

5.5.2023
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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No