

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 3619 of 2017 (O&M)

Date of Decision: 30.11.2023

Punjab State Power Corporation Limited and Another
... Appellant(s)

Versus

Kulwant Rai
... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Parminder Singh, Advocate
 for the appellant(s).

Mr. Ramneek Singh Baweja, Advocate
 for the respondent.

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. The learned counsel representing the parties are *ad idem* that the First Appellate Court has failed in its duty to re-appreciate the evidence and independently decide the appeal. They agree that the First Appellate Court has reproduced the findings of the trial Court and concluded that there is no ground to interfere. They further submit that the First Appellate Court must have shown the conscious application of mind while deciding the case.

3. Without delving deeper into the intricate details of the issue, the

present appeal is allowed. The impugned judgment passed by the First

Appellate Court is set aside while requesting it to decide the appeal afresh after re-appreciating the evidence in accordance with law.

4. The parties, through their learned counsel, are directed to appear before the First Appellate Court on 18.12.2023.

5. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)

Judge

November 30, 2023

“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No