

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.102

Case No. : RSA-76-2018 (O&M)

Date of Decision : July 12, 2023

Punjab State Power Corporation Limited
(PSEB) and another Appellants
vs.
Municipal Council, Rajpura and antoher Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. H. S. Grewal, Advocate
for the appellants.

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GURBIR SINGH, J. :

1. **CM-94-C-2018** : This is application under Section 5 of the Limitation Act for condonation of delay of 41 days in filing the present appeal. For the reasons mentioned in the application, the same is allowed and delay of 41 days in filing the present appeal is hereby condoned. The application stands disposed of.

2. **Main Appeal** : This is Regular Second Appeal filed by the plaintiffs-appellants (hereinafter referred to as - the appellants) against the concurrent judgments passed by the learned Courts below.

3. The appellants filed suit for recovery of Rs.4,76,816/- along with future interest from the defendants-respondents with regard to arrears of electricity charges for the period from August 1997 to December 2002. The defendants-respondents failed to pay the same. They contested the suit mainly on the ground that the suit was barred by limitation.

05.11.2014, held that the suit was barred by limitation. The learned Appellate Court, vide its judgment dated 06.01.2017, upheld the said finding and dismissed the appeal filed by the appellants against the judgment of learned Trial Court.

5. Learned counsel for the appellants has argued that for every month, the amount in question used to be mentioned as arrears in the bills from 2004 and finally in the month of April 2008, along with the current bills, the defendants/respondents used to deposit only the current bills. The pending amount was being mentioned in each and every bill till the filing of the suit. So, the suit filed by the appellants was within limitation. He has referred to Section 56(2) of the Electricity Act and submitted if sum due has been shown continuously as recoverable as arrear of electricity charges, then suit can be filed for recovery of the said amount. Section 56(2) of the Electricity Act is being reproduced hereunder for ready reference :-

"Section 56(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity."

6. Heard.

7. Admittedly, the case of the appellants is that the audit party ordered to overhaul the account of respondents from August 1997 to

December 2002, on the basis of consumption recorded through meter from February 1997 to June 1997. After adjusting the amount already deposited by the respondents, a sum of Rs.4,76,816/- was found recoverable from the respondents from August 1997 to December 2002 by audit party, vide its Report dated 10.03.2004. The said amount was included in the then current bills from April 2004 onwards.

8. Admittedly, the arrears pertained to the period from February 1997 to June 1997. The same became due in the next bill. The suit was filed on 12.06.2008, after a period of more than 10 years.

9. The account was overhauled for the period from September 1997 to December 2002. On asking, learned counsel for the appellants has fairly conceded that before the Trial Court, bills were not proved that the arrears of electricity charges were being regularly mentioned in those bills.

10. The suit for recovery of electricity charges is certainly barred by limitation. The learned Courts below have rightly held so in their judgments. Accordingly, finding no merit in the instant Regular Second Appeal, the same is hereby dismissed.

11. Pending applications, if any, shall stand disposed of along with this judgment.

July 12, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.