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

1. RSA-1256-1992 (O&M)
Date of decision: 24.07.2024

Punjab State Electricity Board, Patiala

...Appellant

Versus

M/s Sachdev and Sons Rice Mills Sangaran Sahib

...Respondent

2. RSA-1255-1992 (O&M)
Date of decision: 24.07.2024

Punjab State Electricity Board, Patiala

...Appellant

Versus

Ashok Kumar Sachdeva

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Gurnoor Singh Sethi, Advocate for the appellant
(In both the cases)

Mr. T.N. Gupta, Advocate and
Mr. Saksham Mahajan, Advocate for the respondent
(In both the cases)

VIKAS BAHL, J. (ORAL)

1. Present order will dispose of two Regular Second Appeals filed
by the Punjab State Electricity Board, Patiala i.e. RSA-1256-1992 with
respect to Civil Suit No.142 of 1982 and RSA-1255-1992 with respect to



Civil Suit No.152 of 1982.

2. Two suits for mandatory injunction directing the defendant (present appellant)-Punjab State Electricity Board to restore the connection of work order No.MS-57 and work order No.MS-27 installed in the premises of the plaintiffs were filed by two plaintiffs (respondents in the present case) i.e. M/s Sachdeva & Sons Rice Millers, Sangarana Sahib, Tehsil and District Amritsar and Ashok Kumar Sachdeva son of Chaman Lal. Both the suits were decided by the trial Court vide common judgment dated 08.05.1987 and the same were decreed in favour of the plaintiffs/respondents and the present appellant/defendant was ordered to reconnect the work order load No.MS-27 and MS-57.

3. Two appeals bearing Civil Appeal No.83 of 07.08.1987 and Civil Appeal No.84 of 07.08.1987 were filed by the present appellant-Punjab State Electricity Board, Patiala before the First Appellate Court and the said appeals were dismissed vide common judgment dated 01.04.1991.

4. It is not in dispute that the First Appellate Court had dismissed both the said appeals without giving a finding on all the issues and had dismissed the appeals only on the point that the appeals which had been filed by the Punjab State Electricity Board were “incompetent” as there was no legal and valid authority for filing the same. Aggrieved against the same, the defendant has filed the present two Regular Second Appeals.

5. Learned counsel for the appellant in both the cases has submitted that the common judgment deserves to be set aside on a short point and the matter deserves to be remanded back. It is submitted that the Regulations which have been taken into consideration by the First Appellate



Court i.e. the Punjab State Electricity Board Regulations of Business, were of 1960 (hereinafter to be referred as “the 1960 Regulations”) whereas the appeal had been filed on 07.08.1987 and on the said date, the said Regulations had been repealed and it is the Punjab State Electricity Board Regulations of Conduct of Business, 1980 (hereinafter to be referred as “the 1980 Regulations”) which were in force. It is further submitted that the relevant Regulations providing the details of the procedure with respect to the filing of a suit and specifying the competent controlling authority who was required to give sanction for the same were contained in Regulations 25 to 27 read with Annexures A and B appended to the 1980 Regulations. It is further submitted that the 1980 Regulations much less the Regulations 25 to 27, which govern the procedure with respect to filing of suits, have not been considered by the First Appellate Court. It is submitted that even the judgment of the Single Bench of this Court in case titled as ***The State Electricity Board, Patiala Vs. K.K. Bansal, SDO***, reported as ***1982 All India Land Laws Reporter 355***, which had been considered by the First Appellate Court also took into consideration the 1960 Regulations and not the 1980 Regulations and in the instant case the First Appellate Court has not even remotely considered the relevant Regulations which are Regulation Nos.25 to 27 of 1980 Regulations. It is thus, submitted that the statutory right of first appeal of the appellants has been taken away in a casual manner by the First Appellate Court.

6. Learned counsel for the respondents-plaintiffs has submitted that the trial Court had correctly decreed the suit of the plaintiffs after finding the same to be meritorious and has further stated that even in case



the 1980 Regulations including Regulation Nos.25 to 27 along with Annexures A and B were to be considered, then also the appeals filed by the appellant before the First Appellate Court would be “incompetent”. However, the fact that the First Appellate Court had considered the 1960 Regulations and not the 1980 Regulations could not be disputed.

7. This Court has heard learned counsel for the parties and has perused the paper book.

8. The First Appellate Court had, while relying upon the judgment of learned Single Judge in the case of ***The State Electricity Board*** (Supra) made a reference to the 1960 Regulations and held the appeals to be “incompetent” on the ground that the same have been filed without any legal and valid authority. The operative part of the judgment passed by the First Appellate Court is reproduced hereinbelow:-

*“13. In an other authority reported as “The State Electricity Board, Patiala Vs. K.K. Bansal SDO, 1982, All India Land Laws Reporter 355” the Hon'ble Mr. Justice J. V. Gupta as he then was under para 5 page 356 has been pleased to observe that there are regulations regulating the business of the Board, known as Punjab State Electricity Board, **Regulations of business** 1960. Regulation 8 thereof provides that every order or decision of the Board shall be authenticated by the signatures of the Chairman or a whole time Member and all other instruments issued or executed by or on behalf of the Board shall be authenticated by the signatures of the Secretary, Deputy Secretary etc. The Administrative Member of the Board has been assigned to take a decision regarding 'legal cases' under the distribution of duties and functions allocated to the various members. **In the given case in hand***



there is nothing on the record to show that the Administrative Member of the Board has been assigned to take a decision regarding legal cases or for the purpose of filing the appeal in these cases. My attention was also drawn to 'Murthi Shri Raghunath Ji Vs. Joginder Singh etc. 1971, Current Law Journal, 47".

14. *For the reasons given above, the appeals as they are cannot proceed as the same are incompetent having not been filed in accordance with the rules. Rather there is no legal and valid authority, As such the appeals are dismissed as incompetent. File be consigned."*

9. It is not in dispute that the civil suits in the present case were filed in the year 1982 and the first appeals were filed on 07.08.1987 and on the said date, the 1980 Regulations were in force. Relevant portion of the 1980 Regulations is reproduced hereinbelow:-

“REGULATIONS OF BUSINESS

In supersession of order No.3098/PSEB dated 1.12.1967 and the various other additions/alterations made therein from time to time, the Punjab State Electricity Board is pleased to make the following regulations, in exercise of the powers conferred by clause (k) of Section 79 of the Electricity (Supply) Act, 1948 (LIV of 1948):-

1. ***These regulations may be called “Punjab State Electricity Board Regulations of Conduct of Business, 1980”. These shall come into force at once.***

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25. ***No suit on behalf of the Board or Public Officer as such shall be instituted/defended without the prior sanction of the Competent Controlling Authority as per specimen copy of sanction enclosed as Annexure ‘B’ to these Regulations.***

26. ***For the institution of (i) a suit on behalf of the Board***



*(ii) the defence of any threatened suit to which the Board has been made a party (iii) intervention by the Board in any suit in which the Board shall/is interested or (iv) the institution or defence of a suit by or against a Board employee in his official capacity, **the following officers shall act as Competent Controlling Authority in matters relating to their charge:-***

(i) Secretary

(ii) Chief Engineers

(iii) Chief Accounts Officer

(iv) Chief Auditor

(v) Superintending Engineer

(vi) Deputy Secretaries

(vii) Executive Engineers

27. The procedure laid down in Annexure-‘A’ to these regulations shall be followed in matters provided in Regulation 26.

xxx xxx”

10. It is the said Regulations read with Annexures A and B which were in force on the date when the appeals were filed. A perusal of the said Regulations would show that they have been passed in supersession of the earlier order dated 01.12.1967. Moreover, the procedure which governs prior sanction with respect to institution of suits on behalf of the Board has been provided in Regulations 25 to 27 read with Annexures A and B. The First Appellate Court has not considered the 1980 Regulations, much less Regulation Nos. 25 to 27 and the said fact is apparent from the operative part of the judgment of the First Appellate Court, relevant portion of which has been reproduced hereinabove.

11. It is trite law that first appeal is a statutory right of the appellant and thus, it is the duty of the First Appellate Court to adjudicate upon the



rights of the parties after carefully considering the relevant facts and law. In the instant case, on account of the failure of the First Appellate Court in considering the relevant Regulations, the right of the appellant of having due adjudication of his first appeal has been taken away. The impugned judgment of the First Appellate Court suffers from illegality and perversity and has been passed without taking into consideration the relevant Regulations.

12. Keeping in view the abovesaid facts and circumstances, both the Regular Second Appeals are partly allowed and common judgment dated 01.04.1991 passed by the First Appellate Court is set aside and the case is remanded back to the First Appellate Court to reconsider the matter in accordance with law and to decide the Civil Appeal Nos.83 and 84 of 07.08.1987 afresh as expeditiously as possible.

13. It is made clear that this Court has not opined on the merits of the maintainability of the appeals before the First Appellate Court as well as on the merits of the case and it would be open to both the parties to raise all the pleas as are available to them on both the said aspects and the First Appellate Court would consider and decide the same in accordance with law.

14. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

24.07.2024

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No