



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

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**RSA-2368-1995 (O&M)
Date of Decision: 27.09.2024**

PUNJAB STATE ELECTRICITY BOARD
.... Appellant

VERSUS

MADAN LAL
.... Respondent

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Kunal Garg, Advocate for the appellant.
Mr. S.S. Brar, Advocate for the respondent.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the defendant-appellant challenging the judgment and decree dated 13.05.1994 passed by the Trial Court and the judgment and decree dated 03.04.1995 passed by the First Appellate Court.
2. Brief facts relevant to the present *lis* are that the plaintiff-respondent herein was running a flour mill for which connection bearing No.SP-30 had been granted by the defendant-appellant herein. The plaintiff-respondent was regularly paying the consumption bills. The connection was checked by a flying squad on 28.07.1992 and all seals were found intact. It was the case set up by the plaintiff-respondent that the Junior Engineer was inimical towards him and he wanted some benefits from him and on his refusal he prepared a false report. It was further the case that the demand of ₹44,558 made by the defendant-appellant was illegal and was made with an

ulterior motive. Hence, the suit for declaration, permanent injunction and mandatory injunction. The suit was contested by the defendant-appellant by filing a written statement. It was averred in the written statement that the A.E.E. Flying Squad, Bathinda checked the connection on 01.09.1992 and found that the glass of the meter was tampered as well as the paper seals by the Junior Engineer were found tampered. The meter was disconnected on the spot and packed in a cardboard box and the account of the plaintiff-respondent was overhauled for three years i.e. from 08.1989 to 08.1992 by taking 2578 units bi-monthly on the basis of demand and load factor and as such the demand of ₹44,558 was rightly raised.

3. The Trial Court on the basis of the pleadings of the parties framed the following issues :

1. Whether the demand of ₹44,558 raised by the defendants is illegal ? OPP
2. Whether the plaintiff is entitled to mandatory and permanent injunction prayed for ? OPP
3. Whether the suit is not maintainable in the present form ? OPD
4. Whether the plaintiff has no *locus standi* to file this suit ? OPD
5. Whether the suit is not properly valued for the purpose of court fee ? OPD
6. Whether the defendants are entitled to special costs under Section 35-A CPC ? OPD

7. Relief.

4. The suit was decreed by the Trial Court vide judgment and decree dated 13.05.1994. However, the defendant-appellant was given liberty to hold a fresh inquiry and to raise the demand after following due course of law. Aggrieved by the same an appeal was preferred by the defendant-appellant which appeal was dismissed by the First Appellate Court vide judgment and decree dated 03.04.1995. Hence, the present regular second appeal by the defendant-appellant.

5. Learned counsel for the defendant-appellant would contend that there was no requirement for giving a notice as per the Instructions regarding Theft of Energy and that the disconnection of the meter could be done without any notice to the consumer.

6. *Per contra*, the learned counsel for the plaintiff-respondent would contend that as per Clause 33 of the Abridged Condition of Supply compensation for theft is to be assessed by a competent authority and in the present case there was no such order by the competent authority. It is further the contention that no notice was served upon the plaintiff-respondent for payment. Learned counsel would further contend that as per Clause 33 of the Abridged Condition of Supply compensation shall be payable from the date of last inspection or for three years whichever is less. However, in the instant case compensation has been assessed from 08.1989 to 08.1992 and there is no evidence on the record to show that there was no inspection of the premises during the said period.

7. Heard.

8. In the present case, admittedly, there is no assessment made by the competent authority and the demand was raised on the spot. The First Appellate Court had found that as per Clause 33 of the Abridged Condition of Supply, firstly, there was no order of the competent authority and secondly, there was no evidence on the record that there was no inspection by the Flying Squad and without there being any evidence as to whether there was any inspection or not, the cut-off date for levying the compensation could not have been ascertained. In any case both the Courts have given the defendant-appellant liberty to hold a fresh inquiry and to raise the demand after following due course of law.

9. In view of the above, no fault can be found with the judgments and decrees passed by both the Courts concerned. No question of law much less substantial question of law arises in the present case. The appeal, being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

27.09.2024
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No