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

**RSA-2775-2013 (O&M)
Date of decision : 11.03.2025**

UTTAR HARYANA BIJLI VITRAN NIGAM
Versus

....Appellant

BIJLI DEVI

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Gaurav Mohunta, Advocate and
Mr. Satyendra Kumar, Advocate
for the appellant.

Mr. Munish Mittal, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

Defendant is in second appeal aggrieved of the judgments and decrees passed by the Courts below.

2. For convenience, the parties hereinafter are referred to by their original position in the suit i.e. the appellant as the defendant and the respondent as the plaintiff.

3. Admittedly, the electricity dues sought to be recovered were prior in time from the date the respondent/plaintiff became owner of the property.

3. The issue involved is :



“whether the said charges can be recovered from the respondent/plaintiff or need to be recovered from the erstwhile owner who was in fact the consumer?”

4. The issue is no more *res integra* and has been answered by Supreme Court in the case of **K.C. Ninan vs. Kerala State Electricity Board and others, 2023(3) R.C.R. (Civil) 227**. Supreme Court while recording the conclusions of the judgments and the ratio laid down therein, observed as under:

“3. The matters involving similar nature of dispute were tagged along with the above reference by an order dated 1 November 2007. The issue which is raised in these appeals is whether the arrears of unpaid electricity dues outstanding from the erstwhile owner can be claimed from the subsequent owner, who has acquired the property in proceedings initiated to enforce mortgages or to pay o the dues of creditors.

B. Regulatory Regime

4. Electricity is a concurrent subject under the Constitution of India. Prior to the enactment of the Electricity Act 2003 "2003 Act", the Electricity Act 1910 "1910 Act" governed the supply and use of electrical energy in India. The 1910 Act prescribed the legal framework for laying down cables and other works related to the supply of electricity . It also laid down a legal framework for supply of electrical energy and imposed certain responsibilities and obligations on persons licensed to supply electricity with a view to incentivise the growth of the electricity industry through private licensees.

5. Section 2(c) of the 1910 Act defined "consumer" as any person supplied with energy by a licensee or any other person engaged in the business of supplying energy to the public under the Act, and included any person whose premises were for the time being connected for the purposes of receiving energy. Section



21(2) empowered a licensee to make conditions to regulate their relations with persons who were or intend to become consumers. Section 22 obligated a licensee to supply electrical energy, on application, to every person within the area of supply on the same terms as those on which any other person in the same area was entitled. Section 24 empowered the licensee to disconnect the supply of electricity if any person neglected to pay any charge or sum for energy due to the licensee.

6. The 1910 Act was found inadequate for a coordinated development of electricity and a "grid-system" in India. Therefore, the Electricity (Supply) Act 1948 "1948 Act" was enacted for the rationalisation of the production and supply of electricity and for taking measures conducive to the development of electricity. The 1948 Act mandated the state governments to constitute State Electricity Boards under Section 5 and entrusted them with the responsibility of administering the grid-system and arranging the supply of electricity in the state. Section 26 provided that, subject to the provisions of the Act, the Board shall have all the powers and the obligations of a licensee under the 1910 Act. Section 49 empowered the Boards to supply electricity to any person, not being a licensee, on such terms and conditions as laid down by the Board. In terms of Section 70(2), the provisions of the 1948 Act were in addition to, and not in derogation of the 1910 Act.

7. Parliament enacted the Electricity Regulatory Commissions Act 1998 "1998 Act" with an aim to distance the government from determination of tariffs. The 1998 Act created the Central Electricity Regulatory Commission and enabled the state governments to create State Electricity Regulatory Commissions.

8. Parliament consolidated and harmonised the provisions of the 1910 Act, 1948 Act, and 1998 Act by enacting the 2003 Act. In the process, the 2003 Act repealed the aforesaid three legislations. The long title of the 2003 Act reads as follows:

"An Act to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of



electricity industry, promoting competition therein, protecting interests of consumers and supply of electricity to all areas, rationalisation of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign policies, constitution of Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal and for matters connected therewith or incidental thereto."

5. In view thereof, this Court finds that the matter is squarely covered in favour of the appellant/defendant. Resultantly, the instant regular second appeal is allowed. Suit filed by the plaintiff/respondent is ordered to be dismissed.
6. Pending application, if any, shall also stand disposed off.

March 11, 2025

Dpr

Whether speaking/reasoned

Whether reportable

(Pankaj Jain)

Judge

: Yes/No

: Yes/No