112

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-3811-2023 (O&M)
Date of Decision : 08.08.2025

DAKSHIN HARYANA BIJLI VITRAN NIGAM AND ANR .... Appellants

VERSUS

M.P. AGGARWAL .... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Anil Chawla, Advocate for the appellants.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the defendant-appellants challenging the judgment and decree dated 23.10.2016 passed by the Trial Court and the judgment and decree dated 16.08.2023 passed by the First Appellate Court.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent herein filed a suit seeking relief of declaration to the effect that the alleged outstanding dues of ₹72,942 regarding account No.NN01-0281 installed in property No.39/36, Block-II, situated in Mohalla Div Pathanan, which was allegedly owned by the plaintiff-respondent, was illegal, null and void and time barred. It was the stand taken in the plaint that the plaintiff-respondent was the owner of the aforesaid property and had sold the same to one Sapna wife of Sanjay vide registered sale deed No.14536 dated 09.01.2013. The electricity connection was taken about 25 years ago and the electric meter was also installed. The wall of the said premises fell and the

defendant-appellants disconnected the electricity and removed the electric meter about 20 years ago and since then there was no electricity supply in the aforesaid premises. It was further averred in the plaint that no electricity bill had ever been issued nor any demand raised. It was further stated in the plaint that when Smt. Sapna (subsequent purchaser) applied for a new electricity connection, she was informed that the new electricity connection cannot be released till the dues are cleared. Smt. Sapna filed an application under Section 22-C of Legal Services Act, 1987 before the Chairman of Permanent Lok Adalat (Public Utility Services), Hisar in which the plaintiff-respondent was also impleaded as a respondent. It was stated that the said recovery was illegal, null and void and time barred.

3. On notice the defendant-appellants filed their joint written statement raising various objections regarding cause of action etc. On merits it was stated that the bills were not being paid despite repeated requests and when Smt. Sapna applied for a new electricity connection and officials of the defendant-appellants inspected the records, they found that a sum of ₹72,942 was due in the name of the plaintiff-respondent. It was stated that the defendant-appellants were entitled to recover the outstanding dues.

4. On the basis of the pleadings of the parties the following issues were framed :

1. Whether the plaintiff is entitled for the relief of declaration as prayed for ? OPP

2. Whether the plaintiff is entitled for relief of injunction as prayed for ? OPP

3. Whether plaintiff is estopped by his own act and conduct to file the present suit ? OPD

4. Whether plaintiff has no locus standi to file the present suit ? OPD

5. Whether plaintiff has no cause of action to file the present suit ? OPD

6. Whether the suit is time barred ? OPD

7. Relief.

5. The Trial Court decreed the suit vide judgment and decree dated 23.10.2016. Aggrieved by the same an appeal was preferred by the defendant-appellants which appeal was dismissed by the First Appellate Court vide judgment and decree dated 16.08.2023. Hence, the present regular second appeal by the defendant-appellants.

6. Learned counsel for the defendant-appellants would contend that when the subsequent purchaser, namely, Smt. Sapna applied for a new electricity connection, it was incumbent that she cleared the earlier dues. It is further contended that the subsequent purchaser herein had approached the Permanent Lok Adalat (Public Utility Services), Hisar by filing an application under Section 22-C of Legal Services Act, 1987 hence the filing of the present suit was barred. Learned counsel would further contend that the Court erred in holding that the defendant-appellants were to produce the record and that the onus lay on the plaintiff-respondent to prove that the demand raised by the defendant-appellants was illegal.

7. Heard.

8. In the present case, admittedly, an application filed under Section 22-C of the Legal Services Act, 1987 before the Chairman of Permanent Lok Adalat (Public Utility Services), Hisar was withdrawn with liberty to approach the appropriate forum. Hence, the argument of the learned counsel for the defendant-appellants that the present suit was barred cannot be accepted. In any case the present plaintiff-respondent had not filed the said application. Since the alleged demand being raised is for the period that the property was owned by the plaintiff-respondent, hence the plaintiff-respondent is well within his right to challenge the alleged demand.

9. The Trial Court in the present case, after going through the record, came to a finding that the defendant-appellants (Department) had issued a demand notice (Ex.PW-2/E) for raising a demand of ₹72,942. The official of the defendant-appellants when stepped into the witness box had categorically stated that they had failed to trace the record regarding disconnection of the electricity. Further, DW-2 categorically stated that in case of default of two continuous bills, the Department would issue temporary disconnection order and after six months the permanent disconnection order is issued. The witness also admitted that despite the plaintiff-respondent allegedly become a defaulter in the month of August 1998, no such notice was issued. DW-1, one of the defendant-appellants' witness, specifically deposed that they had failed to trace the record pertaining to the account number of the plaintiff-respondent and they had prepared the demand notice (Ex.D-3) without comparing it with the original. DW-1, namely, Raj Kumar further stated in his examination that the arrears

had been calculated on the basis of a copy of the letter (Ex.D-3). However, he also admitted that the same had been prepared without comparing it with the original. It has also been noticed by the First Appellate Court that the ledger entries (Ex.D-3) were starting from August 1998 till December 2002 and there was no record prior to August 1998 or subsequent to December 2002. Further still, DW-1 could not respond as to when the last bill of the premises was issued or when the meter was removed nor refer to any notice given to the plaintiff-respondent prior to the removal of the meter.

10. Not an iota of evidence was led by the defendant-appellants to show as to on what basis the demand was raised inasmuch as, admittedly, the record could not be traced. The argument of the learned counsel for the defendant-appellants that the onus lay on the plaintiff-respondent deserves to be rejected. Once the demand had been raised by the defendant-appellants, which was challenged by the plaintiff-respondent, it was incumbent on the defendant-appellants to show the basis for such demand. Once the basis for such demand was shown, the onus would then be cast upon the plaintiff-respondent to show that the demand was illegal. Admittedly, there was no record available with the defendant-appellants to have even raised such a demand. In the absence of any cogent evidence having been led by the defendant-appellants to show the basis on which the demand notice was prepared, the same cannot be sustained. In view thereof, no fault can be found with the impugned judgments and decrees. No other argument has been raised.

11. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises for determination in the present case. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

08.08.2025 **(ALKA SARIN)**
Aman Jain **JUDGE**

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