

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****227****RSA-105-2025 (O&M)****Decided on: 05.09.2025****Punjab State Power Corporation Ltd. and others ...Appellant(s)****Vs.****Sarabjit Singh****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Aditya Vermani, Advocate for the appellants.

Mr. Sidhant Bhonsle, Advocate for the respondent.

NIDHI GUPTA, J.

Present Second Appeal has been filed by the defendants against the judgment of reversal dated 20.04.2024 passed by the learned District Judge, Jalandhar; whereby appeal filed by the plaintiff/respondent herein against the dismissal of his suit by the learned Trial Court vide judgment and decree dated 29.03.2022, has been allowed.

2. Brief facts of the case are that the plaintiff/sole respondent herein had filed a suit for mandatory injunction seeking a direction to the defendants/appellants to allow the plaintiff to deposit the amount of Rs.1,10,161/- issued vide demand letter dated 04.01.2017 by the defendants for installation of new tubewell connection; **and** further direction to the defendants to install a new tubewell connection in the name of the plaintiff in his agricultural land. It was the case of the plaintiff that he was owner of the agricultural land. Defendants had introduced a



Scheme of Chairman Quota for installation of new tubewell connection in agricultural land. Plaintiff had applied for new connection under the said Quota which was allowed by the defendants. Accordingly, plaintiff had deposited Rs.3,880/- vide receipt No. 340 dated 10.06.2016; and Rs.20,000/- on 21.11.2016. Vide letter dated 04.01.2017, defendants had made demand of Rs.1,10,161/-. It was the case pleaded by the plaintiff that he had approached local office of the defendants to deposit the said amount but employees of defendant No.2 had not permitted the plaintiff to deposit the same on the pretext that Election Code was imposed; and that connection is a special connection under the Quota and they will inform the plaintiff as and when the same is to be deposited. Plaintiff pleaded that he had already dug a bore measuring 9 inches upto 280 feet by spending lakhs of rupees. Accordingly, he had served legal notice dated 17.11.2017 upon the defendants however, to no avail. Hence, present suit was filed on 03.04.2018.

3. Vide judgment and decree dated 29.03.2022, the learned Trial Court had dismissed the suit of the plaintiff with costs. However, the Appeal filed by the plaintiff was allowed by the learned District Judge, Jalandhar vide judgment and decree dated 20.04.2024. Hence, the present Second Appeal by the defendants.

4. It is *inter alia* submitted by learned counsel for the appellants that in allowing the appeal of the plaintiff, learned Lower Appellate Court has failed to consider that the amount in question had to be deposited in a time bound manner as it was a scheme introduced by the then



incumbent Government. It is further submitted that the Ld. Lower Appellate Court has erred in not taking into consideration that Model Code of Conduct was issued on 04.01.2017 in view of the Assembly Elections in Punjab. After the elections were over, the Respondent was given an extension of three months for depositing the amount. The Respondent rather than depositing the amount chose to file the civil suit against the Appellants.

5. Learned counsel for the appellants further submits that the Ld. Lower Appellate Court has wrongly come to the conclusion that the error and lapse was on the part of the Appellants; whereas a perusal of the evidence on record proves that the respondent did not deposit the amount in a time bound manner. Further, since the policy was scrapped by the Government, the Appellants-Department could have done nothing.

6. It is further submitted that the plaintiff had supplied wrong information to the defendants by way of his Affidavit dated 17.11.2016 Ex.D5; whereby the plaintiff had stated that he was having no other tubewell connection on his agricultural land. Therefore, plaintiff was not even entitled to the said connection as per the Scheme of Chairman Quota. It is accordingly prayed that the present appeal be allowed.

7. *Per contra*, learned counsel for the respondent/plaintiff vehemently opposes submissions made on behalf of learned counsel for the appellants and submits that great prejudice had been caused to the plaintiff. It is submitted that the defendants had issued a letter dated 13.04.2018 to the plaintiff; thereby granting extension of time to the



plaintiff for depositing the demand made vide letter dated 04.01.2017. Vide the said letter, extension had been granted to the plaintiff from 11.01.2017 upto 13.04.2018. Learned counsel contends that as extension was granted upto 13.04.2018 and letter had also been issued on 13.04.2018 therefore, in actual fact, no time was granted to the plaintiff to deposit the demand money. It is accordingly contended that prejudice has been caused to the plaintiff in this manner.

8. It is accordingly submitted that the impugned judgments and decrees suffer from no error, and the present appeal be dismissed.

9. No other argument is raised on behalf of the parties.

10. I have heard learned counsel and perused the case file and the lower Court records in minute detail. Upon giving thoughtful consideration to the rival submissions made on behalf of both the parties, I find merit in the submissions advanced on behalf of the appellants/defendants.

11. Given the long history of dispute, it will be helpful to view the sequence of events in the following chronological order: –

22.07.2016: The defendants had floated a Scheme of Chairman Quota whereby, tubewells, and electricity connections were to be allotted subject to the conditions stipulated therein. As per Condition no.13.4 of the said Scheme as contained in the Electricity Supply Instruction Manual, it was stipulated that:

“13.4 Grant of priority for AP connections.



a. Chairman's Discretionary Quota Priority: *The Chairman's Discretionary Quota priority connections shall be released as per following conditions:-*

XXXXXXXXXXXXXXXXXXXXX

iv. The applicant should not have any tubewell connection in the state of Punjab. In this regard the applicant will submit an undertaking attested by Executive Magistrate that: 1) I do not have any tubewell connection in the State of Punjab."

10.06.2016: The respondent/plaintiff had applied under the said Scheme on 10.06.2016 subject to the conditions and was allowed to deposit Rs.3,880/- vide receipt No. 340 dated 10.06.2016.

17.11.2016: The plaintiff submitted Affidavit dated 17.11.2016 (Ex.D5/at page 155 of the LCR) stating therein "*That I have not taken any other electric connection under any priority scheme previously anywhere in Punjab nor I have any other tubewell connection in my name anywhere."*

21.11.2016: Plaintiff deposited further sum of Rs.20,000/-.

04.01.2017: Vide letter No. 82 dated 04.01.2017, appellants/defendants issued demand letter to the plaintiff to deposit amount of Rs.1,10,161/- for getting tubewell installed.

04.01.2017: On 04.01.2017, Code of Conduct was issued in the State of Punjab in view of the Assembly Elections in Punjab.

17.11.2017: On 17.11.2017, plaintiff issued legal notice (Ex.P5/at page 141 of the LCR) upon the defendants asking that he be allowed to deposit the above said amount.

03.04.2018: Plaintiff filed the present suit for mandatory injunction.



13.04.2018: Even after filing of suit, Defendants issued letter No. 190/194 dated 13.04.2018 (Mark A/at page 55 of the LCR) to the plaintiff granting him extension of 3 months to deposit the demand money of Rs.1,10,161/-.

01.06.2018: Defendants again issued another letter No. 819 dated 01.06.2018 (Ex.D12/at page 169 of the LCR) asking the plaintiff to complete formalities and fulfill the conditions of the Chairman Quota Scheme.

29.3.2022: However, the plaintiff chose not to take benefit of the above said offer made by the defendants. Subsequently, vide judgment and decree dated 29.03.2022, the learned Trial Court had dismissed the suit of the plaintiff with costs.

20.4.2024: However, the Appeal filed by the plaintiff was allowed by the learned District Judge, Jalandhar vide judgment and decree dated 20.04.2024. A perusal of the said impugned judgment dated 20.4.2024, shows that the Learned lower Appellate Court has reversed the well reasoned judgment of the learned Trial Court on the ground that vide letter dated 13.04.2018, the defendants did not grant the plaintiff any sufficient opportunity to deposit the demand amount after the Election Code of Conduct was lifted.

12. However, a perusal of the record shows that in holding as above, the learned lower Appellate Court has failed to take into consideration material facts and findings as comprehensively recorded by the learned Trial Court in its judgment dated 29.03.2022, and which are germane to the issue.



13. The record reveals that during trial, in order to prove his ownership over the agricultural land, plaintiff had placed on record Jamabandi for the year 2011-2012 (Ex.P1/at page 133 of the LCR). From the said Jamabandi it was discovered that the plaintiff was already having tubewell connection on his land - which was in violation of the above reproduced Condition no. 13.4 of the Electricity Supply Instruction Manual. It therefore followed that Affidavit dated 17.11.2016 (Ex.D5) submitted by the plaintiff with his application for allotment before the defendant-Corporation stating therein that he had no tubewell connection on his agriculture land, was false as it contained incorrect information.

14. It was further found that although the plaintiff had stated in his plaint that he had visited the defendants' office asking them to permit him to deposit the remaining amount; however, in his cross-examination, plaintiff has himself admitted that he had not visited office of the defendant after 13.04.2018, as he had already filed the suit before the said date.

15. Plaintiff had also failed to comply with the other formalities and fulfill the other conditions as required under the Scheme. The relevant findings of the learned Trial Court in this regard are contained in para 10 of the judgment dated 29.03.2022 which reads as follows: -

"10. Having due regard to the contentions of both the parties, this court is of the view that plaintiff himself admitted in his cross-examination that in his response to notice of demand memo no. 82 dated 04.01.2017 Ex.D11 sum of Rs.1,10,161/- was to be deposited by him but he did not deposit any amount offered in cash or through cheque or through bank draft in favour of defendant no.3 SDO. But



volunteered he explained that he went to office of defendant no.3 along with cheque book but they told him that they could not accept any payment on account of code of conduct prevailing at that time and he denied receiving of any letter no. 819 dated 01.06.2018 Mark A issued by defendant no.3 in his name for obtaining the aforesaid connection after completing the formalities. The defendants placed on record copy of the said memo as Ex.D12 according to which the time for depositing the amount for releasing the tubewell connection was extended and it was informed that the Punjab State Power Corporation Limited vide letter no. 190/194 dated 13.04.2018 has extended the date and asked the plaintiff to deposit the requisite fee so that his connection may be released accordingly. But the learned counsel for the plaintiff contended that in the letter itself the date was extended up to 13.04.2018 which had allegedly been issued on 01.06.2018. He also pointed out cross-examination of DW1 wherein he was confronted with letter Ex.D12 wherein date is mentioned as 01.06.2018 and present suit was filed against Punjab State Power Corporation Limited before that. But if we see cross-examination of plaintiff himself, then he also stated that he did not visit the office of defendants after 13.04.2018 as he had already filed the suit before the said date which means that the plaintiff himself failed to comply with the demand notice issued by the defendant department after removal of code of conduct. It is also not disputed that the plaintiff has been allotted connection under Chairman Quota by the defendant department as admitted by DW1 Rajesh Kumar also in his cross-examination now if we see jamabandi for the year 2011-12 Ex.P1 in the name of plaintiff, then the source of irrigation is shown to be tubewell whereas in the affidavit filed by the plaintiff before the electricity



board for releasing the electric connection under the Chairman Quota states that he is not having any other tubewell connection in his name. The initial fee of Rs.3880/- was deposited by the plaintiff vide receipt no. 340 dated 10.06.2016 as detailed in his affidavit Ex.D7 and the demand notice of Rs.1,10,161/- was demanded vide Ex.D8 but there is no date mentioned in Ex.D8 to show that when it was issued. If we see the memo no. 12831 dated 28.12.2016 Ex.D10, then also there is reference of demand of Rs.1,10,161/- from the plaintiff and as per Ex.P4 i.e, demand notice no. 82 dated 04.01.2017 then it was sent on 06.01.2017 through post asking the plaintiff to comply with the conditions as detailed in the said demand notice from Sr. No.1 to 17 which means that plaintiff was not only required to deposit the amount rather he was to complete other formalities also. But none of the said conditions have been proved to be complied by the plaintiff as per condition no.10 affidavit attested from DC office Suvida Center 1st Class Magistrate was required and ELCV report was also required to be given, fresh jamabandi, passport size photo, ID proof, CEI star rating meter and undertaking Ex.D3 allegedly executed by plaintiff Sarabjit Singh bears no date of its execution and the affidavit Ex.D5 attested from Executive Magistrate on 17.11.2016 i.e. before issuance of demand notice Ex. P4 allegedly issued on 04.01.2017 vide memo no. 82 and the other undertaking/affidavit Ex.D6 is also dated 17.11.2016. So, from the entire evidence brought on record, it appears that plaintiff himself failed to complete the formalities as required by the defendant department within period prescribed under law and there is no evidence to prove the fact that he visited the office of defendant department to deposit the amount or he was having ready money to deposit the same. No date and



time has been pleaded by the plaintiff that when he actually visited the defendant department to deposit the demand raised by them and when and who allegedly refused to deposit the amount from the plaintiff. As per para 10 of affidavit of plaintiff, he visited the office of defendant on 25.03.2018 and requested them to deposit the amount as per demand notice issued on 04.01.2017 but plaintiff failed to prove that why he failed to deposit the amount when the election code was lifted. So, all these facts shows that plaintiff himself failed to comply with the conditions of demand notice and failed to deposit the amount as demanded by the defendant department. So, he is not entitled to any kind of relief of mandatory injunction as prayed for. Accordingly, issue no.1 is decided against the plaintiff and in favour of the defendants.” (Emphasis added)

16. From a bare reading of the above facts, it is strikingly clear that the plaintiff had filed factually incorrect Affidavit (Ex.D5/at page 155 of the LCR) deliberately misleading the defendants and seeking to take tubewell on incorrect premise by wrongly stating that no tubewell is existing at his land; whereas Jamabandi for the year 2011-2012 (Ex.P1/at page 133 of the LCR) produced by the plaintiff himself shows that there is tubewell in the name of the plaintiff. It is also important to note that this fact has not been specifically denied by the plaintiff at any stage. Even a perusal of the Grounds of Civil Appeal No. 95 of 2022 filed by the plaintiff before the learned District Judge, Jalandhar also shows that findings of the learned Trial Court that the plaintiff had supplied false and incorrect information to the defendants in his Affidavit dated 17.11.2016, has not



been disputed. A perusal of the impugned judgment of the learned lower Appellate Court shows that none of the above said factors have been considered by the learned District Judge.

17. It may also be pointed out that this Court had put a query to learned counsel for the defendants/appellants to a why was the application of the plaintiff accepted considering the fact that he was already having a tubewell on his agricultural land. In reply it is stated by learned counsel for the defendants that the fact that the plaintiff was already having tubewell on his agricultural land, was discovered by the defendants only during course of trial when Jamabandi for the year 2011-2012 (Ex.P1) was produced by him before the learned Trial Court.

18. Furthermore, in holding that the plaintiff had been granted no opportunity by the defendants to deposit the demand money of Rs.1,10,161/-, learned lower Appellate Court has ignored the letter dated 13.04.2018 (Mark A) issued by the defendants to the plaintiff; whereby further extension of 3 months was given to the plaintiff to deposit the said amount; and letter No. 819 dated 01.06.2018 (Ex.D12) informing the plaintiff to complete the required formalities and fulfill the conditions of the Chairman Quota Scheme. The plaintiff had also failed to fulfill the other conditions in the demand notice (Ex.P4/at page 139 of the LCR from Sr. No. 1 to 17). In any event, from the above findings, it is clear that plaintiff had fraudulently filed a false Affidavit and did not fulfill the conditions of the Scheme. As such, the tubewell connection cannot be granted to him.

19. Keeping in view the above said facts and findings, the present Second Appeal is **allowed**. The impugned judgment and decree dated 20.04.2024 passed by learned District Judge, Jalandhar is set aside; and the judgment and decree dated 29.03.2022 passed by learned Trial Court is restored. Resultantly, the suit of the plaintiff stands dismissed.
20. Pending applications, if any, stand(s) disposed of.

05.09.2025

Divyanshi

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No

(NIDHI GUPTA)

JUDGE