
(2013) 08 P&H CK 0744

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular Second Appeal No. 2281 of 2013 (O and M)

Gram Panchayat

APPELLANT

Vs

Haryana Vidhut
Parsaran Nigam Ltd.
and Others

RESPONDENT

Date of Decision: Aug. 1, 2013

Hon'ble Judges: Vijender Singh Malik, J

Bench: Single Bench

Advocate: J.P. Sharma, for the Appellant;

Final Decision: Dismissed

Judgement

Vijender Singh Malik, J.

This is regular second appeal of the plaintiff against the dismissal of its suit as well as appeal by learned Addl. Civil Judge [Senior Division] Narnaul vide judgment and decree dated 1.9.2010 and learned Additional District Judge, Narnaul vide judgment and decree dated 12.2.2013. Gram Panchayat, Faizabad, the plaintiff-appellant filed a suit for permanent injunction restraining the defendants from recovering an amount of Rs. 22,823/- alongwith surcharge from it as also from disconnecting the electricity connection No. H314SP of the plaintiff. The plaintiff had taken an electric connection bearing account No. H314SP from defendants for providing drinking water to the residents of village Faizabad. The officials of the Haryana State Electricity Board used to make fictitious entries about visiting the spot. They have been giving note since 1996 that reading could not be taken as meter room was found locked. The defendants then changed the meter without notice to the Gram Panchayat and without informing it of the last reading. The plaintiff-appellant claimed that officials of the defendants did not visit the spot after July, 1999 even to take the reading of the new meter. Meter room was further shown to be locked They have issued bill in November, 1999 showing an amount of Rs. 22,823/- as due from the plaintiff and asked the plaintiff to pay a sum of Rs. 23,137/- till 15/16.11.1999. The notice issued by the defendants is illegal, null and void. The meter

was never kept locked and the plaintiff was never informed about the defective meter as also about the change of meter. It is also claimed that arrears for more than six months also cannot be recovered. The defendants were requested not to disconnect the electric supply, but they refused to do so and, hence, the suit.

2. The defendants have resisted the claim of the plaintiff. It is alleged that meter readers used to go to obtain the reading and make entries in the record as per rules. It is their claim that the premises where the meter was installed was always found locked and hence, the reading could not be taken. It is further averred that the notice issued by them to the Gram Panchayat is legal and valid and the plaintiff was having notice of the change of meter because the same was done with the consent of the plaintiff as the old meter was dead. The meter reading while removing the old meter was noticed and the amount has to be recovered from the plaintiff as per rules. They have also claimed that they have every right to disconnect the electric supply of the plaintiff for non-payment of dues.

3. On the pleadings of the parties, following issues were framed by learned trial court.

1. Whether the bill issued by the defendant depicting the amount of Rs. 23,137/- together with surcharge Rs. 463/- payable on or before 15/16 November, 1999 is illegal, wrong, against law and null and void on account of the reason mentioned in para No. 5 of the plaint? OPP

2. Whether the suit is not maintainable in the present form? OPD

3. Whether the suit is time barred? OPD

4. Whether the suit is bad for non-joinder and mis-joinder of necessary parties? OPD

5. Whether the suit is frivolous and false? OPD

6. Whether the defendant is entitled for special cost? OPD

7. Relief.

4. Taking evidence of the parties, learned trial court came to the conclusion under issue No. 1 that the bill issued by the defendants to the plaintiff is not proved in any manner to be illegal. Since the electric connection of the plaintiff had already been disconnected, the suit was held not maintainable under issue No. 2 because no relief of mandatory injunction had been sought. After returning findings on the other issues for want of being pressed, the suit was held to have failed and was dismissed with costs.

5. As already said, the appeal preferred by the plaintiff failed before learned Additional District Judge, Narnaul vide judgment and decree dated 12.2.2013.

6. Learned counsel for the appellant has contended that the meter was installed in an open place and it was never locked. According to him, the meter readers used to make

fictitious entries and the plaintiff is not bound by those entries. According to him, the bill raised in a sum of Rs. 22,823/- vide which a sum of Rs. 23,137/- is claimed, is not legal and, therefore, the defendants are liable to be restrained from recovering this amount.

7. In the evidence, Dharampal, a Panch of Gram Panchayat, Faizabad has appeared as PW-1. He has stated that the electric connection was obtained for water supply scheme for the villagers. He has stated that fictitious entries were being made by the meter readers. He has made a statement in support of the plaintiff's case.

8. On the other hand, the defendants have proved on record the ledger of the account where entries are regularly made. No word is stated by Dharampal that Gram Panchayat was making payment of the bills regularly. So, it can be safely concluded that the plaintiff has not deposited any amount as dues for this connection. There is, moreover, nothing on record to prove that the meter was installed in open place and that it was not there in a closed place on which lock was kept lying. There is also no evidence to prove that the meter installed for the connection was working and was not defective. Had the meter been in working order, there was no question of the defendants changing the meter. The changing of the meter is even admitted by the plaintiff.

9. It is a case where the electric connection of the plaintiff has already been disconnected and there is no occasion now, for issuance of any permanent injunction restraining the defendants from disconnecting the electric supply to the aforesaid connection. In these circumstances, this court is of the considered view that the findings arrived at by the courts below do not warrant any interference. Moreover, no questions of law much less substantial questions of law arise in this appeal. Consequently, the appeal has no merit and is dismissed in limine.