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High Court Of Punjab And Haryana At Chandigarh

Case No: Regular Second Appeal No. 3346 of 2009

Punjab State Electricity Board and Others	APPELLANT
Vs	
Balwinder Singh	RESPONDENT

Date of Decision: Nov. 16, 2010

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

L.N. Mittal, J.

1.Defendants Punjab State Electricity Board and its officers, having lost in both the courts below, are in second appeal.

2. Suit was filed by Respondent-Plaintiff Balwinder Singh - Proprietor of Matharu Gear Industries against the Appellant-Defendants. It is undisputed that the Plaintiff has electricity connection No. MS-31/0023 (in short - No. 23), whereas Plaintiff''s son Ranbir Snigh has electricity connection No. MS-31/0026 (for convenience - No. 26) and another son R. S. A. No. 3346 of 2009 Jaswinder Singh has electricity connection No. SP-31/0203 (for brevity - No. 203), all from the Defendants. The said consumers have been paying their bills. Defendants, however, issued demand letter dated 31.01.2006 demanding ?98,233/-from the Plaintiff on the basis of higher tariff by clubbing all the aforesaid three electricity connections.

3. The Plaintiff in the suit has challenged the aforesaid demand made by the Defendants alleging the same to be illegal and unlawful. It has been alleged that all the three connections have been installed in three separate premises and there are streets/passages of 25'' and 30'' width separating the three premises. All the three premises have separate entry gates. The premises are being used by different persons, for their separate business. The Plaintiff thus alleged that there is no ground for clubbing

the three connections and for raising the demand in question.

4. The Defendants inter alia pleaded that all the three connections are in the name of the Plaintiff and his two sons (one connection each) and thus, the three connections belong to one family. These connections have been taken separately for wrongful gain. All the three connections are inter-linked. There are two generator sets in the premises of connection No. 26 supplying power to all the three units. Similarly, a single air compressor is supplying air to all the three units. It was also alleged that three cameras installed in the three units have common control in the office of connection No. 23. There is also a 3"-0"" wide gate in the common wall of premises of R. S. A. No. 3346 of 2009 connection No. 23 and 26. It was thus alleged by the Defendants that the three connections have rightly been clubbed and the demand in question is legal and valid. Various other pleas were also raised.

5. Learned Civil Judge (Junior Division), Faridkot, vide judgment and decree dated 09.08.2008, decreed the Plaintiff"s suit. First appeal preferred by the Defendants stands dismissed by learned District Judge, Faridkot, vide judgment and decree dated 04.12.2008. Feeling aggrieved, Defendants have preferred the instant second appeal.

6. I have heard learned Counsel for the parties and perused the case file.

7. Learned Counsel for the Appellants vehemently contended that all the three connections stand in the name of Plaintiff and his two sons (one connection each). There are common generator sets and air compressor supplying power and air to all the three units. Control of the cameras installed in the premises of three connections is in the office of one connection. There is also entry gate in the intervening wall of premises of connection Nos. 23 and 26. It was accordingly contended that in view of these circumstances, the three connections have rightly been clubbed.

8. On the other hand, learned Counsel for Respondent-Plaintiff vehemently contended that all the three connections are situated in three different premises, separated by passages of 25"-0"" and 30"-0"" width. The premises have separate entry gates. It was accordingly contended that there R. S. A. No. 3346 of 2009 is no ground for clubbing the three connections within the parameters of regulation No. 167 of the Electricity Supply Regulations of the Defendants.

9. I have carefully considered the rival contentions. Regulation No. 167 relates to running of more than one connection in the same premises. In the language of the regulation, emphasis has been laid on `same premises". It observes that same consumer taking more than one connection in the same premises in the same or different names results into loss on account of application of wrong schedule of tariffs. It consequently provides in regulation No. 167.1 that premises is the unit of building complex, which has separate entry and is appropriately partitioned from the neighbouring premises in a manner that electricity connection running in the said premises cannot be used in the neighbouring

premises and vice versa. Applying this yardstick, in the instant case, the three connections are in three different premises. They are in separate building complexes having separate entry gates. They are also separated by passages. It is not even the case of the Defendants that electricity connection running in one premises is being used in the other premises. Consequently, within the meaning of regulation No. 167.1, the three premises having three separate connections are separate premises and cannot be said to be same premises for clubbing the three connections.

10. Regulation No. 167.2.1 lays down that where any person applies for a new connection in the same premises or in a contiguous premises by R. S. A. No. 3346 of 2009 carving out from the existing premises or by purchasing adjoining land, such a premises should be allowed new connection only if there is physical separation and where the premises in question are legally transferred. In the instant case, there is physical separation of the three premises having the three connections and it is not even the case of the Defendants that the said premises have not been legally transferred in the names of consumers. Thus, case of Defendants for clubbing the three connections is also not covered by regulation No. 167.2.1. Under this regulation, the three consumers are entitled to separate connections.

11. Regulation No. 167.4 also provides that if more than one industrial connection is running in the same premises in different names and work is carried out by one concern of the Proprietor, such consumers should be prevailed upon to get the loads clubbed after getting it changed in one name and in case, they do not agree, their request for any extension, splitting or transfer of existing load shall not be accommodated. This provision further sounds death knell for the case of the Defendants. According to this regulation, even if there are more connections than one in the same premises, such consumers have to be prevailed upon to get the loads clubbed. The Defendants, of their own, cannot, however, club the loads or connections even in that situation. On the contrary, in the event of failure of the consumers to get the loads clubbed, the only consequence is that request of the consumers for extension, splitting or transfer of existing R. S. A. No. 3346 of 2009 load shall not be accommodated by the Defendants. This regulation thus makes it clear that Defendants on their own have no right of clubbing the three connections in the instant case. It may be added by way of repetition that no case for clubbing all the three connections is even made out within the purview of the regulations. The three connections are in separate premises and not in same premises.

12. For the reasons aforesaid, it becomes manifest that the Defendants illegally clubbed the three connections and the amount demanded is illegal, null and void and wholly unjustified. The suit has, therefore, been rightly decreed by the courts below. Concurrent finding recorded by the courts below in favour of the Plaintiff-Respondent is based on appreciation of evidence and is supported by cogent reasons and is not shown to be perverse or illegal so as to warrant interference in this appeal. No question of law, much less substantial question of law, arises for determination in the instant second appeal.

13. The appeal is bereft of any merit and is accordingly dismissed.