
(1996) 09 P&H CK 0009

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 432 of 1996

Goel Flour and Oil Mills

APPELLANT

Vs

Haryana State Electricity Board

RESPONDENT

Date of Decision : 12-09-1996

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 17 Rule 3

Citation : (1997) 2 CivCC 175 : (1997) 115 PLR 663 : (1997) 1 RCR(Civil) 67

Hon'ble Judges : Swatanter Kumar, J

Bench : Single Bench

Advocate : G.K. Chawla, for the Appellant; A.K. Jain, for the Respondent

Final Decision : Dismissed

Judgement

Swatanter Kumar, J.—This Regular Second Appeal certainly does not raise any question of law for consideration of this Court. The limited point for consideration based upon the facts narrated hereinafter is whether the Court below was justified in closing the evidence of the plaintiff and resultantly dismissing the suit of the plaintiff or not. The plaintiff had filed the suit for permanent injunction. It was averred that Messrs Goel Flour & Oil Mills the firm is of plaintiff No. 2, being the sole proprietor running the business. He had been carrying on the business for number of years. An electric connection was provided by the defendant under account No. T1-SP/29. All the bills prior to 6.12.87 were paid. The defendant had called upon the plaintiff to pay a sum of Rs. 306.95 as line service charges. These charges were objected to by the plaintiff and it is pleaded that local officials of the defendant had given an assurance that these amounts will be deducted in the next bills. The plaintiff did not pay these charges and on 7.12.1987 a bill for Rs. 9299/- was raised which included line service charges of Rs. 306.95 and the amount of Rs. 8594.60 was not explained in the bill.

2. According to the defendant, the plaintiff had not paid the line service rent of Rs. 306.95 per month and total amount of Rs. 12925/- on account of service line and Rs. 12778/- on account of cost of service line was due after deducting cost

of service line i.e. Rs. 647/-. The charges have been computed as per the standard rate prescribed. The defendant also took objection to the maintainability of suit in view of section 5 of the Haryana Government Electricity Undertaking (Dues Act, 1970), as well as u/s 82 of the Electricity Supply Act, 1948.

3. On these pleadings issues were framed by the learned trial court on 6.4.1990 and thereafter the case was fixed for recording the evidence on 10.8.90; 31.8.90; 25.9.90; 20.11.90; 1.3.91; 4.3.91; 3.4.91 and 26.7.91.

4. As the plaintiff failed to produce the evidence inspite of all these opportunities, the evidence of the plaintiff was closed by the Court on 26.7.1991 and the trial court proceeded to pronounce the judgment forthwith. This judgment and decree was assailed in the appeal before the first Appellate; court. The learned first Appellate court affirmed the judgment and decree of the trial Court.

5. There is no doubt that plaintiff in the present case has been not only negligent in pursuing the suit but has acted with utter irresponsible attitude. Even when the first appeal was preferred all that has been averred in the grounds of appeal before the first Appellate Court in regard to the matter in issue, is contained in para 4 of the appeal, which reads as under:

"That the said order of closing of evidence is challenged in this appeal and is liable to be set aside and only one opportunity be given to the appellant to lead his evidence at his own responsibility."

As submitted by the learned counsel for the appellant now, at this stage, that on one or two occasions, the presiding officer was on leave and matter was listed for proper orders. Even if it is correct, there is no justification whatsoever for the plaintiff not to even file a list of witnesses and file process fee and diet money as per the order of the Court. The first Appellate Court has discussed this aspect at length and I find no infirmity in those findings.

6. Procedural law is primarily intended to regulate the progress of the suit, but the provisions in this regard cannot be treated as redundant or ineffective. The actions which are required to be taken by a party under the process of law must be taken in the manner prescribed. The appellant even failed to take initial steps in furtherance to the orders of the Court for recording evidence on its behalf. A party which is negligent and irresponsible to this extent is not entitled to any discretion of the Court. No facts were given before the learned first Appellate Court and for that matter even before this Court to show that there was sufficient cause for not complying with the orders of the Court, for all this period. The plaintiff is a firm carrying on a business. Plaintiff No. 2 is a sole proprietor. Surely it cannot be argued that there was no capacity on the part of the plaintiff to meet the requirements of law in the case or he had nobody to pursue the said case. A firm cannot be equated to a poor litigant whose poverty or other limitation like allowance or other inevitable events which may prevent him from pursuing his suit in the proper manner. The person who flouts or does not carry

out the directions of the Court cannot claim equity and thus discretionary relief from the Court.

7. In any case the claim to pay electricity bill or charges payable for line service can hardly be waived off especially in view of the fact that there was no evidence whatsoever to support the case of the plaintiff.

8. Other issues were not pressed by the defendant. Consequently, they call for no finding even by this court.

9. For the reasons afore-stated, this appeal is dismissed. However, there shall be no order as to costs.