

(2009) 05 RAJ CK 0064
In the Rajasthan High Court

National Gum Factory

APPELLANT

Vs

The Assistant Engineer, Rajasthan State Electricity Board and
Others

RESPONDENT

Date of Decision : 11-05-2009

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 7 Rule 11

Citation : (2009) 05 RAJ CK 0064

Hon'ble Judges : J.R. Goyal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Jitendra Ray Goyal, J.—Since these two appeals filed by appellant-plaintiff pertain to and arise out of the common judgment dated 29/10/2007 passed by Additional District Judge No. 1, Kishangarhbas, Alwar, therefore they have been heard together and are being decided by this common judgment. The parties shall be hereinafter referred in the manner as they were arrayed in the plaint.

2. Brief facts of the case are that plaintiff industry M/s. National Gum Factory (hereinafter to be referred as the plaintiff industry) filed a suit for declaration and permanent injunction against the defendant Rajasthan Rajya Vidhyut Mandal through its officers Chairman, Superintending Engineer and the Assistant Engineer, (hereinafter to be referred as the defendants), in the court of Civil Judge (Junior Division), Kishangarhbas, Alwar with the averments that on the opinion of the vigilance squad at the time of checking on 28/2/1989 the electric metre of the plaintiff industry was removed for testing and installed a new metre but the defendants sent a wrong bill for the month of September, 1989 which is void and ineffective against the plaintiff industry. It was further the case of plaintiff industry that Superintending Engineer refused to rectify the said bill and officers of the respondent electricity board disconnected the electricity connection of the plaintiff industry, therefore prayer has been made to declare the said bill null and void and ineffective against the plaintiff industry.

3. The defendants filed the written statements wherein it was asserted that a bill of Rs. 79876.89 was rightly sent to the plaintiff industry and on account of nonpayment of the same, the competent authorities were compelled to disconnect the plaintiff industry's electric connection. Objections of jurisdiction and deficit court fee were also taken and prayer has also been made to dismiss the suit under Order 7 Rule 11 of the Code of Civil Procedure.

4. On the basis of the pleadings of the parties, issues were framed by the trial court and after recording the evidence the trial court decided the issue No. 5 against the plaintiff industry and dismissed the suit under Order 7 Rule 11 of the Code of Civil Procedure. The plaintiff industry and defendants both filed appeals against the said judgment of the trial court dated 12/7/1996 passed in Civil Suit No. 34/86/89. The First Appellate Court allowed both the appeals and set aside the impugned judgment and decree and ordered to return the plaint since it was found that Civil Judge (Junior Division), Kishangarhbas was not having the jurisdiction to entertain the suit being barred on account of lack of pecuniary jurisdiction. Against the said impugned judgment, the plaintiff industry has filed these two appeals.

5. Heard learned Counsel for the parties on the point of admission.

6. It is not disputed that plaintiff industry challenged the electricity bill for the month of September, 1989 which is of Rs. 79876.89 and a relief was sought to declare the said bill void and ineffective and in these circumstances, the appellate court rightly held that amount of bill under challenge is much more than the pecuniary jurisdiction of the Civil Judge (Junior Division), therefore the trial court was not having jurisdiction to entertain the suit and therefore the first appellate court ordered to return the suit for presentation before the appropriate court. I do not find any illegality or perversity in the impugned judgment. No substantial question of law arises in these second appeals and the same deserve to be dismissed.

7. Consequently, both these appeals are dismissed in limine at the stage.