
(2011) 01 DEL CK 0186

In the Delhi High Court

Case No : Regular Second Appeal No. 57 of 2004

North Delhi Power Limited

APPELLANT

Vs

Shri Kanwar Pal Singh and Another

RESPONDENT

Date of Decision : 19-01-2011

Acts Referred:

Citation : (2011) 01 DEL CK 0186

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : Vikram Nandrajog and Sushil Jaswal Sharma, for the Appellant;
None, for the Respondent

Final Decision : Dismissed

Judgement

Indermeet Kaur, J.—The present appeal has impugned the judgment and decree dated 18.7.2003 which had endorsed the finding of the trial judge dated 17.7.1999 whereby the suit of the plaintiff seeking permanent injunction to the effect that Defendant i.e. Delhi Electricity Supply Undertakings (DESU) be restrained from disconnecting the electricity connection of the plaintiff in terms of the inspection report dated 6.3.1995 was partly decreed in favour of the plaintiff. The finding of the trial judge had been affirmed in the impugned judgment.

2. plaintiff Kanwar Pal Singh and Amrik Singh had filed a suit for permanent injunction. plaintiff No. 1 was the registered consumer of K. No. 515-173298 IP and K. No. 515-17203-9- IP and K. No. 1272047 IP installed at his village. On 06.3.1995 officials of the Defendant conducted an inspection pursuant to which a show cause notice dated 23.3.1995 was sent to him. On 18.4.1995 the officials of the department came to the spot to disconnect his electricity. Contention was that the Defendant had not checked the machines to ascertain the connected load and the load mentioned in the report is imaginary. The report was prepared in the office without any site inspection. Suit was accordingly filed.

3. In the written statement, contention was that the property was inspected on

06.03.1995 and the connected load of 142 HP against the sanctioned load of 20 HP for IP connection and supply had been found at the spot. The excess load was illegal. Show cause notice had thereafter followed.

4. The trial judge had framed three issues. Evidence was led by the plaintiff. He examined himself as PW-1 and proved the bills Ex.PW-1/C to Ex.PW-1/E. He had also relied upon the subsequent inspection report dated 11.10.1996 Ex.PW-1/I to substantiate his statement that the load was less than 100 KW as also the record of the earlier consumption pattern Ex.PW-1/J and Ex.PW-1/K. His contention being that no inspection was carried out at the site. Testimony of PW-1 was also adverted to. DW1 had admitted that the inspection report was not given to either the plaintiff or to his representative.

5. After a detailed examination and scrutiny of the oral evidence and documentary evidence led by the parties the suit of the plaintiff was decreed in part.

6. This finding was upheld in the impugned judgment. The finding returned reads as follows :

... Though it has been stated in the written statement that representative of the Respondent refused to accept and sign the inspection report but DW-1 while deposing in the witness box has not whispered a single word to the effect that inspection report was tendered to the representative of the Respondent but he refused to accept the same. Rather in cross examination DW-1 has stated that inspection report was not handed over to any of the representatives of the Respondent. Relevant portion is reproduced hereunder for the sake of ready reference :

It is correct that copy of the report (inspection) dated 6.3.95 was not handed over to any of the representative of the plaintiff.

No explanation has been offered as to why the report was not tendered to the representative of the Respondent. This itself creates a doubt about the manner in which the report was prepared. Learned Civil Judge has also considered this fact besides other factors in disbelieving the genuineness of the report. I do not find any reason to take a different view than what has been taken by the Ld. Civil Judge on this point. Accordingly I do not find any material illegality and irregularity in the impugned judgment and decree and the appeal is dismissed.

7. There is no perversity in this finding. The substantial questions of law have been formulated in the body of the appeal. The same have been perused. This Court is not a third fact finding court. Its hands are tied. It can interfere with the findings of fact only if they are perverse and not on any other count. No such substantial question of law having arisen, the appeal is dismissed.