

(2010) 09 P&H CK 0413

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 3044 of 2010

Uttar Haryana Bijli Vitran Nigam and Another

APPELLANT

Vs

Deepak Goel

RESPONDENT

Date of Decision : 17-09-2010

Acts Referred:

Citation : (2010) 09 P&H CK 0413

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

Bench : Single Bench

Judgement

L.N. Mittal, J.

C.M. No. 9057-C of 2010:

1. Allowed as prayed for.

C.M. No. 9058-C of 2010:

2. For reasons mentioned in the application, which is accompanied by affidavit, delay of 139 days in filing the appeal is condoned.

Main Appeal:

3. Defendants Uttar Haryana Bijli Vitran Nigam and its Sub Divisional Officer, having remained unsuccessful in both the courts below, have filed the instant second appeal.

4. Suit was filed by respondent-plaintiff Deepak Goel against the appellants. Admittedly, the plaintiff is holder of electricity connection No. DA21-2528 from the defendants and has been paying electricity bills of the said connection. However, defendants, vide impugned memo dated 25.11.2004, demanded Rs. 46,695/- from the plaintiff being electricity dues of another electricity connection No. DA3-1393 in the name of M/s. Kalawati Handloom alleging that both the connections are in the same premises and holder of connection No. DA3-1393 is defaulter and therefore, plaintiff is liable to pay the said amount. The plaintiff in

the suit challenged his liability to pay the said amount alleging that he has no concern with the defaulting electricity connection and is, therefore, not liable to pay the disputed amount. The defendants, however, alleged that since both the connections are in the same premises, the plaintiff is liable to pay the electricity dues of the defaulting connection as well.

5. Learned Civil Judge (Junior Division), Panipat, vide judgment and decree dated 15.10.2009, decreed the plaintiffs suit. First appeal preferred by defendants has been dismissed by learned Additional District Judge, Panipat, vide judgment and decree dated 17.12.2009. Feeling aggrieved, defendants have preferred the instant second appeal.

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

7. Learned Counsel for the appellants contended that in view of sale circular of the appellants, the plaintiff is liable to pay the electricity dues of the defaulting connection also because both the connections i.e. connection of the plaintiff and the defaulting connection are in the same premises. The contention is completely meritless. The sale circular relied on by the appellants stipulates that if any person applies for new connection, he would be liable to pay the electricity dues, if any, of some previous connection, which might be existing in the same premises. In the instant case, however, the plaintiff had obtained his connection almost 15 years before the filing of the suit. While the plaintiff obtained connection, he was not asked to pay any defaulting amount of the other connection. On the other hand, demand of the disputed amount was made vide memo dated 25.11.2004 and apparently, this amount was not due when the plaintiff obtained his connection almost 15 years prior to it. Consequently, the sale circular in question does not make the plaintiff liable to pay the disputed amount. Admittedly, the disputed amount is not due against the connection of the plaintiff, but is due against the connection of M/s. Kalawati Handloom, which was in the name of plaintiff's mother. Consequently, the plaintiff is not liable to pay the disputed amount, which was due from his mother.

8. Courts below have rightly decreed the suit of the plaintiff- respondent. There is no illegality in the impugned judgments of the courts below. No question of law, much less substantial question of law, arises for determination in the instant second appeal