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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA-1462-1998

Date of Decision: July 04, 2025

PUNJAB STATE ELECTRICITY BOARDAppellant
Versus
ASHOK KUMARRespondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. H.S. Baidwan, Advocate for the appellant.
None for the respondent.

HARKESH MANUJA, J. (ORAL)

Present appeal has been filed while laying challenge to the judgment and decree dated 22.12.1997 passed by the First Appellate Court i.e. Addl. District Judge, Gurdaspur whereby, an appeal preferred at the instance of appellant-defendant against the judgment and decree dated 30.01.1993 passed by the Court of learned Sub-Judge First Class, Pathankot came to be dismissed.

2. Very briefly, it may be pointed out here that the respondent-plaintiff happened to be co-owner of a building known as 'Tourist Hotel' situated at Railway Road, Pathankot having three electricity meter connections bearing Nos.840-CS, 793-CS and 850-CS.

3. As per the case pleaded by the appellant-defendant, an inspection was carried out by its Flying Squad of the premises in question on 11.08.1988, wherein, it was found that seal of meter connection No.840-CS was tampered with and accordingly, penalty of Rs.21,898/- was imposed upon the respondent-plaintiff towards theft of electricity besides imposition of Rs.550/- as cost of meter and Rs.50/- towards RCO fees. In addition, penalty of Rs.4250/- was also imposed on account of excess load. With respect to meter connection No.793-CS which was installed at the first floor of the building in question, a penalty of Rs.22,671 was imposed upon the respondent-plaintiff while alleging theft of electricity on account of tampered seals. Further,

with respect to the electricity meter bearing No.850-CS which was installed on the ground floor of the premises in question, Rs.2270/- was imposed upon respondent-plaintiff towards excess load charges.

4. The respondent-plaintiff filed a suit for declaration as well as mandatory injunction, assailed the aforementioned penalties imposed by the appellant-defendant and prayed for restoration of electricity connections to the original positions. It may be noticed here that admittedly, with respect to electricity meter connection No.850-CS, the excess load penalty amounting to Rs.2270/- was deposited by the respondent-plaintiff there and then on 11.08.1988 and the said electricity connection was restored in his favour.

5. The trial Court vide judgment and decree dated 30.01.1993 decreed the suit in favour of respondent-plaintiff while recording that since the electricity meters relating to connection Nos.840-CS and 793-CS were never sent by the appellant-defendant to the M&T Lab and in the absence thereof, no finding could be recorded with respect to the tampering of those meters, therefore, the demand raised on account of theft of electricity was illegal. However, with respect to penalty amounting to Rs.4250/- relating to electricity connection No.840-CS towards excess load, the same was upheld in favour of appellant-defendant besides upholding of the demand of Rs.550/- towards cost of meter and Rs.50/- as RCO fee. Aggrieved of the judgment and decree passed by the trial Court, the appellant-defendant filed first appeal, however, the same came to be dismissed vide judgment and decree dated 22.12.1997, hence the present appeal.

6. It may be pointed out here that in terms of the judgments and decrees passed by the two Courts below, a sum of Rs.4250/- imposed as penalty towards excess load upon electricity connection meter No.840-CS, Rs.550/- as cost of meter and Rs.50/- as RCO fees stood deposited by the respondent-plaintiff with the appellant-defendant.

7. Impugning the judgments and decrees passed by the Courts below, learned counsel for the appellant vehemently submits that the inspection by the Field Officer/Flying Squad was conducted in the presence of respondent-plaintiff on 11.08.1988 and a report prepared at the spot was even signed by him. He also submits that the report regarding tampering of seals was prepared by the Flying Squad having inspected the electricity meters and accordingly, the penalty towards theft of electricity was imposed upon the respondent-plaintiff. It was further submitted that the Courts below failed to take into consideration the detailed evidence available on record and as such, the judgments and decrees passed by the Courts below were liable to be set aside.

8. No one has chosen to appear on behalf of respondent.

9. I have heard learned counsel for the appellant and gone through the paper-book. I am unable to find substance in the submissions made by learned counsel for the appellant.

10. Admittedly, the penalty imposed upon respondent-plaintiff towards excess load qua the two electricity meter connection Nos.840-CS and 793-CS stood paid to the appellant-defendant besides payment of Rs.550/- against cost of meter and Rs.50/- as RCO fees. Hence, the dispute only remained with respect to the imposition of penalty towards theft of electricity on account of alleged tampering of M&T seals in both meters by the respondent-plaintiff. In this regard, it may be pointed out here that a concurrent finding of fact has been recorded by both the Courts below while relying upon statement made by PW-1 Ashok Kumar, UDC, PSEB, Sub-Division Pathankot who categorically deposed that the meters relating to electricity connection Nos. 840-CS and 793-CS regarding which there were allegations of theft of electricity on account of tampering of M&T seals were never sent for testing to any approved Laboratory by the appellant-defendant. Thus, in the absence of both the aforementioned electricity meters ever been sent for testing to the M&T Lab so as to assess whether the seals were tampered with; no penalty towards theft of electricity could have been imposed upon the respondent-plaintiff by the appellant-defendant. Unless the electricity meters were sent and examined at Laboratory, no

conclusive evidence could be recorded about tampering followed by any automatic presumption about dishonest abstraction of electricity. Besides it, no other substantive independent evidence about the functioning or working of the two electricity meters been affected or recording incorrect consumption was not produced and therefore, the demand made by appellant-defendant on account of meter seals of the two electric connections been tampered with was wholly unjustified.

11. Accordingly, in view of the detailed discussion made herein-above, finding no illegality or perversity with the concurrent findings of fact recorded by the Courts below, there being no overlooking of the material available on record, re-appreciation of pleadings and evidence being impermissible, the present appeal being devoid of merits is thus, dismissed.

12. Pending application(s), if any, shall also stand disposed of.

04.07.2025

Tejwinder

**(HARKESH MANUJA)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>