



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

RSA-255-1997 (O&M)

Reserved on :-07.08.2025

Date of Pronouncement:-18.08.2025

Punjab State Electricity Board and Another

... Appellants

Versus

Shivalik Woolen Mills Private Limited

... Respondent

-.-

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Ms. Deepali Puri, Advocate
for the appellants.

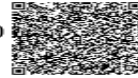
None for the respondent.

VIRINDER AGGARWAL, J.

1. The respondent/plaintiff has filed a suit for permanent injunction restraining defendants from disconnecting the electric connection under Account No.375/46 installed at the premises of respondent/plaintiff on the basis of illegal demands of ₹2,22,400/- made vide memo No.3847 dated 24.09.1987 on the allegations that appellants/defendants raised a demand of ₹2,22,400/- vide memo dated 24.09.1987, on the ground that CTs installed were of 200x5 capacity and not of 100x5 capacity and inadvertently multiplication factor could not be applied on the receipt. Threat from the Department to disconnect the electric connection on account of non-payment of amount demanded gave cause of action. So the suit was filed.



2. Appellant/defendant filed written statement raising preliminary objections regarding misrepresentation and concealment of material facts and alleged that checking was effected by flying squad on 07.09.1987 and 08.09.1987 and plaintiff was found using excessive load as sanctioned load was 88.028 KW whereas running load was 127 BHP, CTs of 200x5 ampere were found to be installed. The CTs installed was of Red phase Sr. No.0802 Kappa make 200x5 Amps, Yellow phase Sr. No.P.2808 Kappa Make 200x5 Amps and Blue Phase Serial No.13795 Kappa Make 200x5 Amp. Checking register was duly signed by the plaintiff along with officials of the appellant/defendant. The CTs were installed in the premises of plaintiff vide SJO No.041/24948 dated 31.08.1984. The CTs of 100x5 Amp. Installed in the premises of the plaintiff on 21.12.1987 were replaced vide a service job order, as one number CT was found sparked. After installation of 200 capacity of CTs, range of consumption was from 8000 units to 10,000 units per months. Whereas the range of consumption prior to replacement of CTs was from 16,000 to 19,000 units per months. The CTs of 200 x 5 Amp. were issued as per entry made in CA-21 register at page 79 item No.9. As the capacity of the CTs was 200x5 Amps, so the readings recorded by the meter were to be multiplied by 2. As the readings were not multiplied by 2, so the defendants served upon plaintiff notice demanding a sum of ₹2,22,400/- by applying multiplier factor of 2 for the period October, 1984 to August, 1987 and defendant alleged that the demand notices are legal and valid and in case the amount is not paid then defendants are within their right to disconnect the connection.



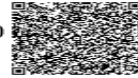
3. During the pendency of the suit, Local Commissioner was got appointed and Local Commissioner after visiting the premises of the respondent/plaintiff reported that capacity of CTs installed at the premises of respondent/plaintiff is 100x5 Amps. and are of Concent make bearing Nos.182/8407, 182/8414 and 182/8531.

4. Plaintiff filed replication reiterating contents of the plaint and denying the averments of the written statement and alleged that CTs installed at the premises of the plaintiff are 100x5 Amps and plaintiff has not changed the CTs from 200x5 Amps to 100x5 Amps during the pendency of the suit. From the pleading of the parties, following issues were framed.

1. Whether the CTs provided were of 200x5 AMPs and recording of the consumption was to be multiplied by two and impugned demand has to be raised on this ground? OPP.
2. Whether the plaintiff, company is a Pvt. Limited company authorized to file the present suit? If not its effect? OPP.
3. Whether the plaintiff is entitled to the injunction prayed for? OPP.
4. Relief.

5. Both the parties led their evidence and after hearing arguments, learned Sub-Judge First Class, Ludhiana dismissed the suit. Aggrieved by the judgment so passed, appeal was preferred by the respondent-plaintiff and the same was allowed vide impugned judgment and decree. The judgment and decree passed by learned Sub-Judge was set aside and suit of respondent/plaintiff was decreed.

6. Aggrieved by the judgment so passed, now appellants/defendants are in appeal. Notice of the appeal was served upon respondent/plaintiff. Respondent/plaintiff served through care taker



Dharminder Kumar, but none appeared for respondent/plaintiff to contest the appeal. Lower Court record was requisitioned. Arguments heard.

7. Learned counsel for the appellant/defendant has argued that the First Appellate Court has not appreciated the evidence correctly, from the record it is proved that CTs 200x5 Amps were installed in the premises of the respondent and the same were of Kappa make and during the pendency of the suit, as per report of the Local Commission, the same were found to be replaced with CTS of 100x5 Amps after tempering with the seals affixed by the raiding party and the make of the CTs was distinct from the make of CTs installed initially and thereafter replaced. The learned First Appellate Court has wrongly discarded the evidence of the appellant/defendant and that findings recorded by the First Appellate Court be set aside and appeal be allowed.

8. I have gone through the record carefully.

9. The learned First Appellate Court discarded the testimony of DW-1 Sh.B.K. Mahajan who checked the electric connection and found the CTs installed of 200x5 Amps at the premises of respondents/plaintiffs and report Ex.D1 on the ground that report is based on visual examination of CTs by DW-1 and that at the time of checking the seals of the chambers, in which, CTs were installed were neither broken nor tampered with and CTs and PTs could not disturbed or changed without breaking or tampering with the seals of the chambers. The original job order vide which the CTs were changed to 200x5 Amps has not been produced by the appellants/defendants. The capacity of CTs before raising demand should have been got determined from MC Laboratory or from any other source, Local Commissioner has

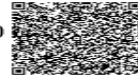


reported that CTs installed at the premises of respondent/plaintiff were 100X5 Amps and not of 200x5 Amps and that CTs were of Consent brand and were brand new and that paper seals on the chamber of CTs were compared by the Local Commissioner. That it has not deposed by B.K.Mahajan DW-1 that CTs found installed were of Kappa make. Even DW-2 has not deposed about the make of CTs, Ex.D6 has not been proved correctly. Ex.D5 job order does not bear signatures of any representatives of plaintiff-company and Ex.D6 the supply order is last entry of the page of the register.

10. The learned First Appellate Court has set aside the finding of the learned Sub-Judge on ill-founded grounds as Sh. B.K. Mahajan, who was leading the inspection team has ample experience to know about the capacity of CTs and no examination from lab is required to determine the capacity of the CTs. If the First Appellate Court can accept the report of Local Commissioner on the basis of visual observations of the Local Commissioner, how could the report of expert witness of the Department on the basis of his visual observations based upon ample experience can be discarded. Furthermore, from the finding of the First Appellate Court, it is quite clear that at the time of visit of Local Commissioner, the respondent/plaintiff has tampered with the seals and has changed the CTs installed at his premises. Para No.13 of the judgment of First Appellate Court is as under:

The appellant company also got appointed Local Commissioner at the time of the filing of the amended plaint, from the court.

The learned trial court appointed Shri R.S. Sharma S.D.O. as



Local Commissioner who visited the spot and reported about the capacity of the CTs Report given by him is Ex. D-3 dated 15.10.1987. The perusal of his report shows that the CTs chamber in which the CTs were installed, had paper seals. He took into possession the removable portion of those seals for comparison with the counter folio. But that did not tally as mentioned by him in his report. He found the capacity of the CT's 100x 5 AMPS and not 200x5 AMPS. He also opined that the make of the CTs was 'Concent' and brand new. But his report did not in any manner help the respondents He compared the paper seals impression on the chamber of the CTs with the counter folio supplied to him by Shri B.K. Mahajan AEE DW-1, who alleged by fixed the paper seals on the chamber of the CTs after checking on 7/8.9.1987.

11. In this para, it is clearly observed by the First Appellate Court that the Local Commissioner has found that the seal did not tally with counter-folio and the CTs installed were brand new. So this clearly shows that the CTs were replaced after tampering with the seals and the reason for tampering with the seals and change of CTs is quite obvious as the respondents/plaintiffs wanted to create evidence in favour of his case. So from this para, it is clear that the respondent/plaintiff has changed the CTs in order to avoid liability. Consequently the findings recorded by the learned First Appellate Court are not based upon correct appraisal of evidence led by the parties and the findings recorded by the learned Sub-Judge First Class, Ludhiana are based upon correct appraisal of evidence on record. First



Appellate Court has wrongly discarded the findings of learned Sub-Judge First Class. In the light of above observations, the appeal filed by the appellants/defendants is allowed and judgment/decree passed by the learned First Appellate Court is set aside and that of the learned Sub-Judge First Class is restored.

12. Since the main case has been decided, pending miscellaneous application(s), if any, stands also disposed of.

18.08.2025
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No