

**RSA-2716-2025 (O&M)**

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA-2716-2025 (O&M)**Date of Decision:11.08.2025**

Dakshin Haryana Bijli Vitran Nigam Limited and another ... Appellants

Versus

Mahabir and another ... Respondents

CORAM : HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Lekhraj Sharma, Advocate
Mr. Abhishek Sharma, Advocate
for the appellants.

AMARINDER SINGH GREWAL, J. (ORAL)**C.M No.9423-C of 2025**

The instant application has been filed under Section 5 of the Limitation Act, 1963 for condonation of delay of 31 days in filing the appeal.

For the reasons stated in the application, the same is allowed and delay of 31 days in filing the appeal is condoned.

RSA No.2716 of 2025 (O&M)

1. The defendants are the appellants before this Court challenging the judgment and decree dated 19.04.2019 passed by the learned trial Court decreeing the suit for declaration and permanent injunction filed by the respondents-plaintiffs and the judgment dated 02.04.2025 passed by the learned 1st Appellate Court vide which the appeal preferred by them against the aforesaid judgment and decree passed by the learned trial Court, has been dismissed.

2. In brief, the facts are that the respondents-plaintiffs had filed the suit for declaration to the effect that a sum of Rs.2,29,569/- added in the electricity bill for the month of July 2016 is illegal, null and void and that they are entitled to



deposit the current bill. A decree of permanent injunction had also been sought against the appellants-defendants to restrain them from recovering the impugned amount of Rs.2,29,569/- and from disconnecting the electricity supply of the respondents-plaintiff. Respondent No.1/plaintiff No.1 had constructed a godown for storing vegetables and fruits and took an electricity connection bearing account No.CC-21/0283 in NDS category with sanctioned load of 10 KWs from the defendants. Respondent No.2/Plaintiff No.2 had taken the said godown on rent from plaintiff No.1 and used the same for storing bananas. It was stated that plaintiff No.2 was regularly depositing the energy bills and nothing remained outstanding against him. Plaintiff No.2 had received the electricity bill of Rs.3,14,505/- for the month of July 2016 wherein Rs.2,29,569/- were charged as sundry charges. It has been stated that the said amount has been charged in an illegal manner as there was nothing outstanding against plaintiff No.2. No notice prior to addition of the sum of Rs.2,29,569/- in the bill of July 2016 as sundry charges was issued. On receipt of the said bill, plaintiff No.2 visited the office of appellants-defendants and asked for the details of amount added in the bill for the month of July 2016 but he was not supplied with the requisite details. Being aggrieved by afore-mentioned factual scenario, the present suit was filed by the plaintiffs.

3. The suit was contested by the defendants by filing written statement and raising preliminary objections qua maintainability, cause of action and suppression of material. However, it was admitted that plaintiff No.2 used the premises of plaintiff No.1. It was conceded that bill to the tune of Rs.3,14,505/- was sent to plaintiff No.2 wherein the sum of Rs.2,29,569/- were charged as sundry charges. The rest of the submissions as made in the plaint were denied.



4. On the basis of pleadings, seven issues were framed by the learned trial Court including the issue of relief. Plaintiffs examined three witnesses in support of his case and tendered documents Ex.PA to Ex.PC. On the other hand, defendants examined two witnesses.

5. On appreciation of oral as well documentary evidence placed before it, the learned trial Court decreed the suit to the effect that a sum of Rs.2,29,569/- added as sundry charges in the bill of June, 2016 is illegal and further restrained the defendants from recovering said amount from the plaintiffs and from disconnecting electricity supply of plaintiffs on account of non-payment of said amount. Appeal preferred by the defendants against the aforesaid judgment and decree before the learned 1st Appellate Court also stands dismissed. Hence, the regular second appeal.

6. Learned counsel for the appellants submits that jurisdiction of the Civil Court is barred under Section 145 of the Electricity Act, 2003 (hereinafter referred to as the Act of 2003) for specific matters delineated under Sections 126 and 127 and actions taken or proposed to be taken under the Act of 2003. To buttress his arguments, he relies upon the judgment passed by a Division Bench of this Court in *Mahesh Kumar Vs. Sub Divisional Officer and another 2025 (3) RCR (Civil) 303*. Both the courts below without examining the issue whether due procedure was followed by the assessing authority or not under the Act of 2003, treated the assessment made by the authority as an arbitrary action. Furthermore, issues No.3 to 6 have wrongly been decided by the learned trial Court as not pressed. The issue of jurisdiction can be raised at any stage. Therefore, prays for setting aside of the impugned judgments and decrees passed by the learned Courts below.



7. Heard.

8. This Court has no hesitation in accepting the argument raised by the learned counsel for the appellants that jurisdiction of the Civil Court is barred under Section 145 of the Act of 2003 and the issue qua jurisdiction can be raised even at the appellate stage. As per Section 145 of the Act of 2003, Civil Court has no jurisdiction to entertain suits or proceedings arising from actions taken under Sections 126 and 127 of the Act *ibid*. Section 126 talks about assessment that if on inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, *the assessing officer comes to the conclusion that such person is indulging in unauthorized use of electricity, he shall provisionally assess to the best of his judgment the electricity charges payable by such person or by any other person benefited by such use.* Therefore, first of all, there should be a report by the assessing officer concluding that a person was indulged in an unauthorized use of electricity and then, there should be provisional assessment with respect to electricity charges payable by such person. In the present case, there is no such report of the assessing officer available on record that there was unauthorized use of electricity and accordingly, a provisional assessment was made. The charges levied are merely sundry charges. Furthermore, such order of provisional assessment ought to be served upon the person in occupation or possession or in charges of the place or premises in such manner as may be prescribed. Admittedly, no such order of provisional assessment was served upon the respondents-plaintiffs. Against the provisional assessment, objections are to be called for and after providing a reasonable opportunity of hearing to such person, a final order of assessment is passed. At no stage, case of the appellants-defendants before the



learned Courts below was that the amount levied upon the respondents-plaintiffs was levied under Section 126 of the Act of 2003 after following the due procedure. The onus to prove that the charges levied upon the respondents-plaintiffs were under Section 126 of the Act of 2003 after following due procedure was on the appellants-defendants, which they failed to discharge. Thus, the judgment relied upon by learned counsel for the appellants in *Mahesh Kumar's case* (supra) is not applicable to the facts of the present case.

9. In view of the above, this Court finds no illegality and irregularity in the judgments and decrees passed by both the Courts below and the same are upheld, much less, no substantial question of law arises for consideration in the present appeal. Consequently, the instant regular second appeal stands dismissed.

10. Misc. application(s) pending, if any, shall also stand disposed of.

(AMARINDER SINGH GREWAL)
JUDGE

August 11, 2025

Pankaj*	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No