



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

RSA-2355-2011 (O&M)
Date of decision : 06.05.2025

M/s Harpal Rice Mills

....Appellant

Versus

Punjab State Electricity Board and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Jaivir Yadav, Sr. Advocate with
Ms. Sunita Shekhawat, Advocate for the appellant.

Mr. Puneet Gupta, Advocate with
Mr. Ravindra Singh, Advocate for respondents No.1 to 5.

PANKAJ JAIN, J. (ORAL)

Plaintiff is in second appeal. For convenience, the parties hereinafter are referred to by their original position before the Trial Court i.e. the appellant as plaintiff and the respondents as defendants.

2. Plaintiff filed suit for declaration to the effect that letter/memo No.20, dated 02.01.2004 issued by defendant No.4 to the plaintiff, raising supplementary bill of ₹2,87,953/- in respect of account No.KM 01/001, is illegal, null and void and without jurisdiction.

3. As per plaint, plaintiff/firm is running a business of rice sheller and cold storage. It is consumer of energy being supplied by respondent(s). Plaintiff was served with letter/memo No.20, dated 02.01.2004, issued by defendant No.4 along with supplementary bill and report of defendant No.5,



in which the plaintiff/firm was asked to pay an amount of ₹2,87,953/- as supplementary bill up to 12.01.2004. Plaintiff claimed that the said bill was illegal, null and void as there was no theft or malpractice alleged against the plaintiff. No show cause notice, prior to raising demand, was served upon the plaintiff. The plaintiff further sought decree of permanent injunction claiming that the defendant under the garb of the impugned communication/ supplementary bill, are threatening to disconnect the electricity connection of the plaintiff/firm.

4. Suit was contested by the defendants raising objection w.r.t. jurisdiction of the civil court being barred under the provisions of Indian Electricity Act, 2003. It was further claimed on merits that the recovery effected is regarding difference of tariff.

5. Suit filed by the plaintiff was put to trial by the Court of the First Instance, framing following issues:

- “1. *Whether letter/memo no.20 dated 02.01.2004 issued by defendant no.4 in respect of electricity account no.KM0//001 is illegal, null and void? OPP*
2. *Whether plaintiff is entitled to declaration as prayed for? OPP*
3. *Whether plaintiff is entitled to permanent injunction as prayed for? OPP*
4. *Whether jurisdiction of Court is barred under the Indian Electricity Act, 2003 regarding tariff matters? OPD*
5. *Whether suit is not maintainable? OPD*
6. *Whether plaintiff has no cause of action to file the present suit? OPD*
7. *Relief.”*



6. After analysing the evidence threadbare, Trial Court found that since the demand raised pertains to difference in tariff, the demand cannot be held to be illegal, null and void. Suit filed by the plaintiff was ordered to be dismissed.

7. Unsuccessful, plaintiff approached Appellate Court.

8. The Lower Appellate Court affirmed the findings recorded by the Trial Court and dismissed the appeal.

9. Mr. Jaivir Yadav, Ld. Senior Counsel representing the plaintiff submits that once it is admitted fact that the plaintiff had been regularly paying the bills as per consumption and there were no arrears pending against him, and also there were no allegations of malpractice or theft, the demand raised by defendants cannot be sustained. He submits that the demand having been raised for the period commencing from the year 1997 to 2002 in the year 2004, is barred being hit by provisions as contained under Section 60A of the Electricity (Supply) Act, 1948 (hereinafter referred to as 'the 1948 Act') which contemplates that amount for the period, beyond three years from the date of demand, cannot be raised.

10. Per contra, counsel for the respondents submits that since the demand raised was w.r.t. difference in tariff, the Courts below have rightly held that the same cannot be subject matter of civil *lis* and there was no question of serving advance notice upon the plaintiff.

11. I have heard counsel for the parties and have carefully gone through records of the case.



12. None of the parties disputes that the demand raised relates to difference in tariff. In view thereof, this Court is of the considered opinion that the demand raised on account of difference in tariff, does not require to be proceeded by a show cause notice and thus the plea raised w.r.t. violation of the principles of natural justice, is misconceived and cannot be accepted.

13. So far as the issue w.r.t. limitation is concerned, Section 60A of the 1948 Act, cannot be pressed into service by the plaintiff. In order to appreciate the same, it will be apt to peruse the provision, which reads as under:

“60A. Period of limitation extended in certain cases.-Where the right to recover any amount due to the State Government for or in connection with the consumption of electricity is vested in the Board and the period of limitation to enforce such right has expired before the constitution of the Board, or within three years of its constitution, then, notwithstanding anything contained in The Indian Limitation Act, 1908 (9 of 1908) or any other law for the time being in force relating to limitation of action, the Board may institute a suit for the recovery of such amount,-

- (i) Where it has been constituted before the commencement of The Electricity (Supply) Amendment Act, 1966 (30 of 1966), within three years of such commencement; and
- (ii) Where it has been constituted after such commencement, within three years of its constitution.]”

14. Section 60A is an enabling clause whereby on their constitution, the boards were granted right to institute claim for recovery of an amount



outstanding against the consumer. It does not prescribe limitation for raising recovery of outstanding dues on account of difference in tariff.

15. In the present case, the consumer is having account with the supplier. Admittedly, all through the period he has been paying the bills. Thus, the amount raised on account of difference in tariff for the time commencing from the year 1997 to 2002 by way of demand raised in January, 2004, cannot be held to be barred by time invoking Section 60A of 1948 Act.

16. In view thereof, finding no merit in the present appeal, the same is ordered to be dismissed.

17. Pending application(s), if any, shall also stand disposed off.

May 06, 2025

Dpr

(Pankaj Jain)

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No