

HRRE010086742023



Presented on : 03-11-2023  
Registered on : 03-11-2023  
Decided on : 26-05-2026  
Duration : 2 years, 6 months, 23 days

**IN THE COURT OF DISTRICT JUDGE AT REWARI  
PRESIDED OVER BY GURVINDER SINGH WADHWA**

**CA/403/2023**

1. Dakshin Haryana Bijli Vitran Nigam through Superintending Engineer, Shakti Bhawan, Jhajjar Road, Rewari.
2. Executive Engineer, City-II, DHBVN, Rewari, Shakti Bhawan, Jhajjar Road, Rewari.
3. SDO, Electricity Board, City-II, DHBVN, Rewari, behind Double Phatak, Qutubpur, Rewari, Tehsil and District Rewari.

....Appellants-defendants

VERSUS

1. Dr. Suman Saini wife of late Dr. Rahul Kant Saini,
2. Smt. Savitri Saini wife of Sh. Rajni Kant Saini, Advocate,
3. Dr. Rizul Saini son of late Sh. Rahul Kant Saini, all residents of Dharuhera Chowk, Opposite Petrol Pump, Rewari, Tehsil and District Rewari.

....Respondents-plaintiffs

**Civil appeal against the judgment and decree dated 09.10.2023 passed by the Court of Shri Piyush Sharma, the then learned Civil Judge (Sr. Division), Rewari.**

Argued by: Shri Dhirender Singh Yadav, Advocate for the appellants-defendants.  
Shri R.K. Saini, Advocate for the respondents-plaintiffs.

**JUDGMENT:**

This is an appeal against the judgment and decree dated 09.10.2023 passed by the court of Sh. Piyush Sharma, the then learned Civil Judge (Sr. Division), Rewari vide which the suit of the plaintiffs-respondents has been decreed with costs, with the prayer to allow the appeal, to set aside the impugned judgment and decree and to dismiss the suit of the plaintiffs-respondents with costs.

2. The brief facts of the plaintiffs' case are that the plaintiffs are joint owners of building bearing House Tax No.7685/31, Opposite Petrol Pump, Dharuhera Chowk, Rewari and they are having an electricity connection bearing No.OD-111-299 at the said premises and are regularly paying the electricity bills. In the basement of the premises, there is legal office of the husband of plaintiff No.2 namely Sh. R.K. Saini, Advocate and rest of the floors are lying vacant. During the period of lockdown, no legal work was being done in the said office and the sitting hours were not more than two hours in a day in the office. The defendants issued the bill for the month of September, 2020 in which the current electricity charges had been shown as ₹1,130.03 and arrears were added in the said bill for the first time to the tune of ₹1,24,430/- and late charges of ₹2,000/- were also added. In this manner, total amount which was shown payable was ₹1,27,382/- which was to be paid on or before 23.09.2020. Earlier the employees of the defendants used to visit the premises of the plaintiffs and prepared the bills as per the units consumed and the said bills were

duly paid by the plaintiffs' till the month of December, 2019 and thereafter, no bill or message was received for the period from January, 2020 to September, 2020. All of a sudden, the impugned bill was issued to the plaintiffs. Even the arrears in the impugned bill have been wrongly and illegally assessed and the same are not in consonance with the previous consumption pattern of the plaintiffs' as the consumption of electricity never exceeded 1500 units in a calendar year and the plaintiffs are not doing any commercial activity in the said premises and the impugned bill is patently wrong, false, illegal and excessive. The plaintiffs are ready and willing to deposit the actual consumption charges for the period from January, 2020 to October, 2020. They visited the office of the defendants and requested them to correct the impugned bill, however the officials of the defendants refused to accede to their just and genuine requests. Hence the suit. They prayed for the declaration to the effect that the impugned bill for the month of September, 2020 showing recovery of ₹1,27,382/- from the plaintiff pertaining to meter No.OD-111-299 is illegal, arbitrary and is liable to be set aside and a decree for permanent injunction restraining the defendants from disconnecting the electricity connection bearing No.OD-111-299 or to recover the impugned amount of bill for the month of September, 2020 and if during the pendency of the suit, the defendants succeed in disconnecting the electricity connection then the same may be restored at the costs of the defendants by passing a decree of mandatory injunction in favour of the

plaintiffs and against the defendants with any other relief to which the plaintiffs are found entitled to.

3. On notice, the defendants appeared and filed their joint written statement taking preliminary objections that the suit of the plaintiffs is not maintainable in the present form and that the plaintiffs are estopped by their own act and conduct to file the suit and that the plaintiffs have no locus-standi and cause of action to file the suit and that the plaintiffs have not come to the court with clean hands. On merits, it is stated that the meter reading of the electricity connection for the period from April, 2018 till January, 2020 could not be retrieved due to some technical defect of the machine. In the month of January, 2020, the meter reading was retrieved through CMRI machine and the reading was found as 30672.05 units. During the above said period, the bill was being sent to the plaintiffs by the defendants on provisional basis. After retrieval of meter reading, the bills for the period from February, 2020 to July, 2020 were not got issued due to Covid-19 pandemic. In the month of August, 2020, the total units consumed during the period from 10<sup>th</sup> April, 2018 till 21.08.2020 were found to be 23128 and after adjusting the amount of ₹40,463/- which had already been deposited by the plaintiffs, a bill of ₹1,22,653/- was issued to the plaintiffs and the plaintiffs are liable to pay the said amount to the defendants. Rest of the averments made in the plaint were denied and dismissal of the suit has been prayed for.

4. Replication denying the pleas of the defendants and

reasserting as correct to that of the plaint was filed by the plaintiffs. From the pleadings of the parties, the following issues were framed vide order dated 09.11.2021:-

1. Whether the plaintiffs are entitled for decree of declaration as prayed for?OPP
2. Whether the plaintiffs are also entitled for decree of permanent injunction as prayed for?OPP
3. Whether the plaintiffs are also entitled for decree of mandatory injunction as prayed for?OPP
4. Whether the suit of the plaintiffs is not maintainable in law?OPD
5. Whether the plaintiffs are estopped by their own act and conduct to file the suit?OPD
6. Whether the plaintiffs have no locus-standi and cause of action to file the suit?OPD
7. Whether the plaintiffs have concealed the material facts from the court?OPD
8. Whether the plaintiffs have not affixed proper court fee on the plaint?OPD
9. Whether the civil court has no jurisdiction to try the suit?OPD
10. Relief.

5. To prove the case, the plaintiffs examined Smt. Savitri Devi (plaintiff No.2) as PW1. They have tendered the documents, Ex.P1 to Ex.P3, electricity bills, Ex.P4 receipt of payment dated 20.12.2019, Ex.P5 representation given by the counsel for the plaintiffs, Ex.P6 & Ex.P7 postal receipts, Ex.P8 original bill for the month of March, 2023, Ex.PX copy of bill for the month of September, 2020, Ex.PZ attested copy of

letter dated 19.10.2020 regarding deposition of bill amounting to ₹62,800/-.

6. On the other hand, the defendants have examined Sh. Surender Kumar, UDC as DW1. They have tendered the documents, Ex.DW1/1 attested copy of ledger account, Ex.DW1/2 attested copy of meter testing report, Ex.DW1/3 attested copy of LL-1 report bearing No.6098/01 dated 09.12.2021.

7. No evidence in rebuttal was led by the plaintiffs.

8. After hearing both the sides, the learned trial court took issues No.1 to 3 together for adjudication and decided these issues in favour of the plaintiffs. Under issues No.4 to 9, it held that the burden of proving the aforesaid issues was upon the defendants, however, during the course of arguments none of these issues were pressed by the learned counsel for the defendants. Hence, all the aforesaid issues are decided against the defendants. Finally, it decreed the suit of the plaintiffs with costs to the effect that the demand of ₹1,25,561/- as shown payable in the electricity bill of the plaintiffs for the month of September, 2020, issue date 16.09.2020 bearing account No.OD-111-299 is illegal, null and void and is hereby set aside. Any amount already deposited by the plaintiffs in this regard is ordered to be adjusted by the defendants in the future bills of the plaintiffs. Further a decree of permanent injunction thereby restraining the defendants from adopting any coercive method for recovery of the disputed amount of ₹1,25,561/- from the plaintiffs and further restraining

them from disconnecting the electricity connection of the plaintiffs, subject to regular payment of electricity bills regarding the electricity consumed by the plaintiffs and except in due course of law, was passed in favour of the plaintiffs and against the defendants.

9. Aggrieved with the impugned judgment and decree, the defendants are in appeal.

10. In the grounds of appeal, it is submitted that the impugned judgment and decree dated 09.10.2023 are wrong, illegal, perverse and are liable to be set aside. The learned trial court has acted illegally and arbitrarily while decreeing the suit of the plaintiffs-respondents. The findings of the learned trial court so far, they go against the appellants are illegal, unsustainable and are liable to be reversed. The learned trial court has not considered the pleadings of the parties properly. The learned trial court has not considered the basic principles of law mentioned in CPC as well as Electricity Act, 2003. The learned trial court has misinterpreted Section 145 of Electricity Act, 2003. The learned trial court has acted illegally, arbitrarily, improperly with material illegalities and irregularities while decreeing the suit of the plaintiffs-respondents. The entire approach of the learned trial court for determination of material questions of law and facts arising in the case is wrong and thus, resulted in gross miscarriage of justice to the appellants. The learned trial court has illegally, erroneously and arbitrarily not appreciated the facts and consequential relief thereto. The findings recorded by the learned trial

court are unwarranted by the facts and circumstances of the case. The learned trial court has erred in relying upon the evidence produced by the respondents which is totally unreliable and untrustworthy. The learned trial court has completely gone beyond the pleadings of the parties which resulted in decreeing the suit of the plaintiffs-respondents. The learned trial court has committed a patent error in decreeing the suit of the plaintiffs-respondents. The judgment is not even a speaking one and the learned trial court has passed mechanical order. The learned trial court has not discussed the material points involved in the suit. The learned trial court has erred in not appreciating the cogent, reliable and authentic version produced by the appellants and further erred in appreciating the unauthentic and unreliable evidence produced by the respondents. The learned trial court has erred in recording its findings under the issues. Therefore, the appeal of the appellants be allowed and the impugned judgment and decree be set aside and the suit of the plaintiffs-respondents be dismissed with costs.

11. Notice of the appeal was issued to the respondents. The respondents appeared through counsel.

12. The trial court record has been requisitioned.

13. I have heard the learned counsel for the appellants-defendants as well as the learned counsel for the respondents-plaintiffs.

14. The learned counsel for the appellants-defendants submitted that the present case is not a case of theft of electricity but there is dispute

to the electricity bill issued to the respondents-plaintiffs. This is a matter of R&V i.e. reading not visible. There is the objection of maintainability of the suit in the civil court. The electric connection is in the name of Sh. Rahul Kant whereas suit has been filed by owners. One of the owner has died. The rule is that in case of death of owner, the information will have to be given to DHBVN within 15 days of the death and the LRs will get the electric connection transferred in their names. In the present case, the reading was not visible on the meter and when it was again checked, it was retrieved. The bill was given to them which was deposited by the owners as bill was correct. The common charges are applicable and the Electricity Department i.e. DHBVNL are charging the chargeable consumption of the electricity. The learned trial court has not appreciated this fact properly and has erred in returning the findings under the issues. Therefore, these be reversed and be returned in favour of the appellants by allowing the appeal.

15. On the other hand, the learned counsel for the respondents-plaintiffs submitted that in the period of September, 2020, there was COVID and the defendants-appellants issued the bill to the plaintiffs-respondents for electricity consumption to the tune of ₹1,25,560/-. In the previous bill, there was no arrear. Therefore, the plaintiffs-respondents filed the suit on 07.10.2020. An amount of ₹62,800/- had been deposited on 19.10.2020 in pursuance of the order of the court on which the electric connection of the plaintiffs-respondents was restored. The learned trial

court in its order has observed that how the consumption of 30000 units will come in a short period. Any manipulation can be done to accommodate the neighbourers. The plaintiffs had filed the representation before filing the suit to the defendants-appellants but the defendants-appellants did not reply on which the plaintiffs filed the suit. Out of the owners, the electric connection had been taken in the name of one brother. The plaintiffs-respondents have already made the payment of an amount of ₹1,85,145/- whereas the dispute is of an amount of ₹1,26,000/-. The learned trial court has decreed the suit of the plaintiffs-respondents for an amount of ₹62,000/-. The suit of the plaintiffs-respondents is very much maintainable. The learned trial court has rightly appreciated the evidence on the record and has rightly returned its findings under the issues. There is no illegality in the same. The appeal of the appellants is devoid of any merit in it. Therefore, it be dismissed. In support of his contentions, he relied upon the authorities titled **Dakshin Haryana Bijli Vitran Nigam and another Vs. Gurpreet Singh and another**, decided by our Hon'ble High Court on 03.02.2026 in RSA-439-2025 (O&M), **Sub Divisional Officer and another Vs. Smt. Kamla Devi**, decided by our Hon'ble High Court on 27.10.2025 in RSA No.1952 of 2024 (O&M), **North Delhi Power Limited (now known as TATA Power Delhi Distribution Ltd.) Vs. Devinder Singh and another**, decided by the Hon'ble Supreme Court of India on 04.12.2017 in Civil Appeal No(s).20842 of 2017 (Arising out of SLP(C) No(s).6883 of 2017), **Dakshin Haryana Bijli**

**Vitran Nigam Ltd. and another Vs. Smt. Sudha**, decided by our Hon'ble High Court on 28.03.2022 in RFA-13-2022 (O&M).

16. On this, the learned counsel for the appellants-defendants referred the table Ex.DW1/1. He submitted that the provisional reading (PR) had been adjusted. The old reading was 8217 and the new reading was 31345. The learned trial court has not appreciated the evidence on the record properly and has erred in returning the findings under the issues in favour of the plaintiffs-respondents. In support of his contentions, he relied upon the authorities titled **Mahesh Kumar Vs. Sub Divisional Officer and another**, decided by the Division Bench of our Hon'ble High Court on 14.05.2025 in RSA No.4181 of 2016 (O&M) and **Sub Divisional Officer and another Vs. Smt. Kamla Devi**, decided by our Hon'ble High Court on 27.10.2025 in RSA No.1952 of 2024 (O&M).

17. I have gone through the file carefully and considered the arguments advanced at length.

18. The authority titled **Mahesh Kumar Vs. Sub Divisional Officer and another (supra)** says that there is no jurisdiction to the civil court to entertain the suit.

19. In the authority titled **Sub Divisional Officer and another Vs. Smt. Kamla Devi (supra)**, it has been held in para No.25 that, "Applying the aforesaid parameters to the present case, this Court finds that it is the case where there is neither any FIR registered qua offence punishable under Section 135 nor any complaint preferred before the

Special Court notified under Section 153, the jurisdiction of Civil Court, cannot be held to be barred invoking Section 154 of 2003 Act.

20. In the authority **Dakshin Haryana Bijli Vitran Nigam and another Vs. Gurpreet Singh and another (supra)**, it has been held that it is a case where there is neither any FIR registered qua offence punishable under Section 135 nor any complaint preferred before the Special Court notified under Section 153, the jurisdiction of Civil Court, cannot be held to be barred invoking Section 154 of 2003 Act.

21. In the authority **North Delhi Power Limited (now known as TATA Power Delhi Distribution Ltd.) Vs. Devinder Singh and another (supra)**, it has been held that Special Electricity Court set up under the Electricity Act, 2003 does not have jurisdiction to entertain civil suits. Such courts are established exclusively for the trial of offences under the Act and exercise the powers of a Court of Sessions.

22. In the authority **Dakshin Haryana Bijli Vitran Nigam Ltd. and another Vs. Smt. Sudha (supra)**, it has been held that relying upon the judgment of the Hon'ble Supreme Court of India titled 'North Delhi Power Limited Vs. Devinder Singh and another' decided on 04.12.2017 in Civil Appeal No.20842 of 2017, two Regular First Appeals bearing case No.RFA-445-2021 titled as 'Punjab State Power Corporation Limited and another Vs. Kulwinder Singh' and RFA-2330-2021 titled as 'Dakshin Haryana Bijli Vitran Nigam and another Vs. Vidyawati' decided on 21.12.2021, it has been held that the special court constituted under the

Electricity Act, 2003, does not have the jurisdiction to entertain and decide a civil suit or application under Section 154 of the Electricity Act, 2003, in the absence of a criminal case. Therefore, the appeal filed by Dakshin Haryana Bijli Vitran Nigam and another was allowed and the judgment dated 03.02.2021 passed by the Special Court constituted under the Electricity Act, 2003 in a suit for declaration filed by the respondent was declared to be without jurisdiction and the judgment and decree dated 03.02.2021 passed by the Civil Court are set aside.

23. In the present case, PW1 Smt. Savitri Devi respondent-plaintiff has tendered her duly sworn affidavit Ex.PW1/A in evidence narrating her version as mentioned by her in the plaint. In her cross-examination, she stated that the electricity connection is about 25-30 years old. Prior to April, 2018 the electricity bills were being issued as per actual consumption. She self stated that she had made the payment of the bills on time in the office of the defendants. Notice was issued by the Nigam to her prior to the checking of the meter in M&T Lab. She later came to know that the meter was found intact in the checking. The bills for the period from January 2018 to December 2019 were issued by the Nigam time to time. She self stated that she had deposited the bills on the due dates. She had deposited 50% of the disputed amount in compliance of the order of the court. She self stated that she had deposited the payment under protest.

24. DW1 Surender Kumar, UDC tendered his duly sworn affidavit Ex.DW1/A in evidence. In his cross-examination, he stated that he is posted as CA in the office since May 2023. He admitted that the old meter installed at the site was found intact during its checking in the lab and its old readings could not be retrieved. The electricity bills to the consumer till April 2018 were issued as per actual consumption and the bills from May 2018 till installation of new meter were issued as per average basis. He self stated that the readings in the old meter during the month of August 2020 came to be known as 31345 i.e. 23128 units and accordingly bill of an amount of ₹1,46,863/- was issued. Out of which an amount of ₹40,463/- was adjusted in the payment of PR (provisional reading) bills. He admitted that the readings of the meter being not retrieved in the lab shows that its reading mechanism is defaulted. He admitted that during the checking, no tampering with the meter by the consumer was found. Due to high voltage and other technical defects, there may be a fault in the meter reading mechanism. New meter was installed on the aforesaid connection of the plaintiff in the month of February 2022. Thereafter, the readings of the meter and payment of the bill is up to date.

(From the above, it is clear that the old meter installed at the site was found intact during its checking in the lab and its old readings could not be retrieved and that the readings of the meter being not retrieved in the lab shows that its reading mechanism was defaulted and

that during the checking, no tampering with the meter by the consumer was found and that due to high voltage and other technical defects, there may be a fault in the meter reading mechanism).

25. Therefore, there is no force in the contentions of the learned counsel for the appellants.

26. Therefore, in view of this, after giving thoughtful consideration on the evidence led by the parties, this court is of the view that the learned trial court has rightly appreciated the evidence on the record and has rightly returned its findings under the issues. There is no illegality in the same. Therefore, these are affirmed. The net result is that the appeal of the appellants is devoid of any merit in it. Therefore, it is dismissed with no order as to costs. Decree-sheet be drawn accordingly. Copy of the judgment be sent to the learned trial court along with the record of the learned trial court. Appeal file be consigned to the record room after due compliance.

Pronounced in open court:  
26.05.2026

(Rajkumar, Steno Gr.-II)

(G.S. Wadhwa)  
District Judge, Rewari  
(UID No.HR0085)

Note: All the pages have been signed by me.

(G.S. Wadhwa)  
District Judge, Rewari  
(UID No.HR0085)