

**IN THE COURT OF AJAY, PCS, CIVIL JUDGE (JUNIOR DIVISION),
MOGA (UID No. PB0629).**

Civil Suit No. 775/2019

Date of Institution: 16.09.2019

CNR No. PBMO020012572019

Date of Decision: 22.02.2023.

Jasvir Singh Son of Sajjan Singh resident of Village Dhudike District Moga.

.....Plaintiff.

Versus

1. Jaspal Chand

**2. Tejpal Chand sons of Krishan Kumar son of Roora Ram both residents of village
Daudhar Tehsil and District Moga.**

..... Defendants.

Suit for recovery of Rs. 2,22,080/- i.e. Rs. 30,000/- on account of rent for use of atta chakki and two arras used by defendants and Rs. 1,00,000/- outstanding on account of use of electricity by defendants and Rs. 90,080/- on account of non deposit of electricity bill by defendants and fine imposed by electricity department with future interest and costs thereon and future penalty imposed by department of Punjab State Power Corporation Ltd. Relating to connection no. F51SP830903Y or any other relief which this Hon'ble Court may deem fit and proper.

Present: Sh. Jatinder Kingra, Advocate Counsel for the Plaintiff.
Sh. Gagandeep Singh Sandhu, Advocate Counsel for the Defendants.

JUDGMENT

The Plaintiff has filed the present suit for recovery against the defendants as mentioned in the head note of the plaint.

2. The brief facts of the plaint are that the plaintiff is owner of Atta Chakki and two arra machines situated in the area of village Dhudike Tehsil Moga. The defendants have taken the above said atta chakki and two arra machines on lease basis for the period w.e.f 01.10.2017 to 30.09.2018 @ Rs. 9000/- per month. There is an electric connection installed in the said karkhana and defendants promised to pay bill of consumption charges regularly. The defendants also executed an agreement regarding lease on 29.09.2017. The defendants have used the atta chakki and arra machine but they have neither paid the due amount of rent charges nor paid the electricity bills so far till today. Thereafter, a compromise was effected on 10.12.2018 whereby defendants promised to pay the outstanding rent amount and also electricity charges. The defendants have closed the said atta chakki and arras and have neither paid any amount lease money nor paid any amount. The plaintiff is entitled to recover the amount as mentioned in the headnote of the plaint from defendants. The defendants were asked many a times to admit the rightful claim of the plaintiff, but they have refused to do so. Hence, the present suit.

3. Notice of the suit was given to the defendants and they appeared and filed

the written statement. It is submitted in the written statement that it is an admitted fact that the plaintiff is owner of Atta Chakki and two arra machines situated in the area of village Dhudike Tehsil Moga. It is further an admitted fact that the defendants have taken the above said atta chakki and two arra machines on lease basis for the period w.e.f 01.10.2017 to 30.09.2018 @ Rs. 9000/- per month. There is an electric connection installed in the said karkhana and defendants promised to pay bill of consumption charges regularly. The defendants also executed an agreement regarding lease on 29.07.2017. It is further submitted in the written statement that the defendants used to pay rent of Atta chakki and arra as per conditions of the agreement dated 29.09.2017 on the first day of each month. The defendants used to pay rent to the plaintiff every month and even some of the instalments were paid by the defendants in the presence of Tarsem Singh son of Gurcharan Singh resident of village Daudhar Tehsil and District Moga. As there was mutual understanding between the plaintiff and defendants, so no receipts were taken by defendants from the plaintiff and it is also practice in the area. The defendants paid the entire electric bills for the period as stated in the agreement dated 29.09.2018 and handed over the receipts of said bills to the plaintiff. Now the plaintiff has filed a false suit to harass and humiliate the defendants. As there was no dispute regarding the rent and electricity bills between the plaintiff and defendants, so the question of any compromise dated 10.12.2018 does not arise. Rest of the paras of the plaint have been denied being wrong and prayed for dismissal of the suit has been made with costs.

4. Replication to the written statement was not filed by the plaintiff. From the pleadings of the parties the following issues were framed on dated 13.12.2019:-

1. Whether the plaintiff is entitled for the recovery as prayed for? OPP
2. Whether the plaintiff has no cause of action to file the present suit? OPD
3. Whether the suit of the plaintiff is false, frivolous and baseless? OPD
4. Relief.

5. In order to prove his case, plaintiff has got examined Kewal Singh (marginal witness of lease agreement dated 29.09.2017) as PW1 through his affidavit as Ex.PW1/A in which he has stated that he knows the parties to the suit and defendants have taken Atta chakki and two arra machines of the plaintiff on lease basis for the period w.e.f 01.10.2017 to 30.09.2018 @ 9000/- per month and this agreement dated 29.09.2017 as Ex.P1 was executed in his presence. Plaintiff has further got examined PW2 Jagdev Singh Document writer through his affidavit Ex.PW2/A who has proved on record original agreement dated 29.09.2017 as Ex.P1 and compromise dated 10.12.2018 as Ex.P2 being scribe of these documents. Plaintiff has further got examined PW3 Jagdev Singh AEE Sub-Division PSPCL Ajitwal who has proved on record the ledger account (1 to 13 pages) as Ex.P3/A. Plaintiff Jasvir Singh himself has come into witness box as PW4 through his affidavit as Ex.PW4/A in which he has reiterated the version of his plaint which is not reproduced here due to avoid repetition. He has proved on record original agreement dated 29.09.2017 as Ex.P1 and compromise dated 10.12.2018 as Ex.P2. Lastly, Plaintiff has further got examined PW5 Jasdeep Singh (marginal witness of compromise dated 10.12.2018) through his affidavit Ex.PW5/A who has proved on

record original compromise dated 10.12.2018 as Ex.P2. After that, Ld counsel for the plaintiff has closed the evidence of the plaintiff on dated 24.11.2022.

6. On the other hand, in order to rebut the case of the plaintiff, Defendant No.1 Jaspal Chand himself has come into witness box as DW1 through his affidavit Ex.DW1/A in which he has reiterated the entire version of his written statement which is not reproduced here in order to avoid repetition. After that, Ld counsel for defendants closed the evidence on 12.01.2023.

7. In rebuttal evidence of the plaintiff, the Learned Counsel for the plaintiff tendered electricity bill dated 26.08.2019 as Ex.P4 and closed the rebuttal evidence of the plaintiff and the arguments of the learned counsels for the parties were heard.

8. The learned counsel for the plaintiff has argued that defendant no.1 took the flour mill and saw mills of the plaintiff on rent for a period of 1 year w.e.f 01.10.2017 to 30.09.2018 vide lease agreement dated 29.09.2017 on a monthly rent of Rs. 9,000/-. Vide this agreement, the defendant no.1 agreed to pay electricity bill extra from the rent. It is further contended that defendants used flour mill and saw mills of the plaintiff as lessee and they consumed electricity during the lease period. It is further contended that electricity department issued electricity bill dated 26.08.2019 for a sum of Rs. 1,92,080/- in respect of the meter installed in the said flour mill and saw mills of the plaintiff. The defendants did not pay the rent of the flour mill and saw mills and electricity charges as per the lease agreement dated 29.09.2017. They agreed to pay the rent of Rs. 30,000/- as rent of the flour mill and saw mills and Rs. 1,00,000/- on account of arrears of

electricity bills within six months i.e. by 09.06.2019 vide compromise dated 10.12.2018 Ex.P2 as they executed the same in the presence of the witnesses. Now the electricity Department issued the electricity bill dated 15.08.2019 for a sum of Rs. 1,92,080/- to the plaintiff and defendants are liable to pay the as they consumed the electricity power as they were tenant in the flour mill and saw mills of the plaintiff. It is further argued that the defendants had not paid the said rent and electricity bills. Hence, the plaintiff is entitled to recover the Rs. 2,22,080/- along with interest from the defendants. The plaintiff has proved his case by leading cogent and convincing evidence against the defendants. He has prayed that suit of the plaintiff may kindly be decreed with costs for the principal amount along with interest.

9. Per contra, the learned counsel for the defendants has argued that the plaintiff is not entitled to recover any amount from the defendants as defendants had paid all the rent and electricity bills/consumption charges as per consumption of the electricity from time to time and the rent was also paid as agreed between the parties. At the time of expiry of rent period, nothing was due towards defendants in any manner either towards rent or towards electricity bills or any other rent. It is further contended that the plaintiff has filed a false case in order to extort money from the defendants. In the end, he prayed for dismissal of suit with costs.

10. I have heard the learned counsels for both the parties and having perused the judicial file very carefully with their able assistance. For the purpose of deciding the present suit, my issue-wise findings are as under:-

ISSUE No. 1:-

11. The onus to prove this issue No.1 was on the plaintiff as he has filed the present suit for recovery of Rs. 2,22,080/- along with interest against the defendants on account of rent and electricity charges as per the mandate of section 101 of the Indian Evidence Act 1872 which obligates that whoever wants to get judgment from a court, he is bound to prove his case and he cannot take the benefit of the weak defense of the other party as he has to stand on his own legs. In the present case, which has been based on account of rent and electricity charges.

12. It is the case of the plaintiff that the defendant no.1 was tenant in the flour mill and saw mills of the plaintiff and defendants did not pay the rent and electricity charges which were liable to be paid by the defendants as per compromise deed dated 10.12.2018 Ex.P2. On the contrary, it is the stand of the defendants that defendants had paid all amount on account of rent as well as electricity charges to the plaintiff when they vacated the flour mill and saw mills of the plaintiff and nothing remained due towards defendants. Further, compromise deed dated 10.12.2018 Ex.P2 is a false document.

13. Firstly, I would like to discuss some admitted facts of the present case. It is an admitted fact that defendant No.1 took the flour mill and saw mills of the plaintiff for a period of one year w.e.f 01.10.2017 to 30.09.2018 vide lease agreement dated 29.09.2017 Ex.P1 on a monthly rent of Rs. 9,000/-. Vide this rent agreement, the defendant no.1 agreed to pay electricity bill extra from the rent. It is further an admitted

fact that defendants used the flour mill and saw mills of the plaintiff as tenant and they consumed electricity.

14. The plaintiff himself has come into witness box as PW4 and deposed through his affidavit Ex.PW4/A in which he has reiterated the entire version of his plaint which is not reproduced here to avoid repetition. The plaintiff has further proved on record lease agreement dated 29.09.2017 Ex.P1 and compromise deed dated 10.12.2018 Ex.P2. The plaintiff has further got examined PW2 Jagdev Singh scribe of the lease agreement dated 29.09.2017 Ex.P1 and compromise deed dated 10.12.2018 Ex.P2. The plaintiff has also got examined PW1 Kewal Singh attesting witness of the lease agreement 29.09.2017 Ex.P1. Plaintiff has also got examined PW5 Jasdeep Singh attesting witness of compromise deed dated 10.12.2018 Ex.P2. Lastly, plaintiff has also got examined PW3 Jagdev Singh AEE Sub-Division PSPCL Ajitwal who has proved the record of electricity connection installed in the atta chakki of plaintiff Jasvir Singh and detail of electricity bills for the month of Oct 2017 to Dec. 2018 Ex.PW3/A for a sum of Rs. 1,24,960/-. The perusal of the Ex.P2 compromise deed dated 10.12.2018 shows that defendants agreed to pay Rs. 30,000/- as rent and Rs. 1,00,000/- as electricity charges to the plaintiff within six months i.e. by 09.06.2019. The Ex.P2 is duly proved by the plaintiff on record by examining himself, its scribe and its attesting witnesses. It becomes clear that vide this document defendants agreed to pay Rs. 1,30,000/- to the plaintiff as rent and electricity charges. The plaintiff has further proved on record electricity bill Ex.P4 which was issued by the Electricity Department to the plaintiff on

dated 15.08.2019 for a sum of Rs. 1,92,080/- which was liable to be paid by the defendants but they have not paid the same.

15. On the other hand, defendants have failed to prove that they had made the payment on account of rent and electricity charges for the lease period. The defendants have not proved any document regarding the payment of rent and electricity charges which were liable to be paid by the defendants as defendants were tenant in the flour mill and saw mills of the plaintiff and they were consuming the electricity supply. Defendant No.1 admitted in the cross examination his signature on the Ex.P1 and compromise deed Ex.P2. They have failed to prove that compromise Ex.P2 is false and frivolous. Accordingly, issue No.1 is decided in favour of the plaintiff and against the defendants.

ISSUES NO.2 and 3:-

16. The onus to prove these issues was on the defendants. No evidence has been led by the defendants in order to prove these issues nor Learned counsel for the defendants pressed these issues in the course of arguments. Thus, these issues are decided in favour of the plaintiff and against the defendants.

RELIEF:-

17. Keeping in view of my above said detailed discussion, suit of the plaintiff is decreed with costs. The plaintiff is entitled for the recovery of ₹ 2,22,080/- along with pendente lite and future interest @ 6% per annum till actual realization of the decretal amount against the defendants. Decree sheet be prepared. File be consigned to the

Judicial Record Room Moga.

Pronounced in open Court:
on: 22.02.2023.

(Pooja* STG-II)

(Direct Dictation)

(Ajay, PCS,
Civil Judge (Jr Division) Moga
Moga. (UID PB0629)

Present: Sh. Jatinder Kingra, Advocate Counsel for the Plaintiff.
Sh. Gagandeep Singh Sandhu, Advocate Counsel for the Defendants.

Ld counsel for plaintiff has closed the rebuttal evidence after tendering one document.

Arguments heard. Vide my separate judgment of even date, suit of the plaintiff for recovery succeeds and the same is hereby decreed with costs. Decree-sheet be prepared. File be consigned to judicial record room, Moga.

**Pronounced in open Court:
on: 22.02.2023**

**(Ajay, PCS,
Civil Judge (Junior Division)
Moga. (UID PB0629)**

(Direct Dictation)

(Pooja STG-II)