

CNR No. HRNU010031542025

1

CIS No. CA-170-2025

S.D.O. DHBVN and another Vs. Smt. Hajra

**IN THE COURT OF
District Judge AT, Nuh
Presided Over by Dr. Sushil Kumar Garg**



CIS No.CA/170/2025

CNR No.HRNU01-003154-2025

Civil Appeal No.: 56 of 2025

Date of Institution: 25.04.2025

Date of Decision : **20.07.2026**

1. Sub-Divisional Officer (OP) Dakshini Haryana Bijli Vitran Nigam,
Tauru, District Nuh
2. XEN Dakshini Haryana Bijli Vitran Nigam, Sohna, District Gurugram

.....Appellants/defendants

Versus

Smt. Hajra widow of Sattar, resident of Village Kairaka, now residing
in Tauru, Tehsil Tauru, District Nuh.

....Respondent/plaintiff

Civil appeal under Section 96 of CPC against the
judgment and decree dated 04.04.2025 passed in
civil suit No.CS-661 of 2022 by the Court of Ms.
Shatakshi, the then learned Civil Judge (Jr.
Divn.), Nuh, vide which the suit of the plaintiff
was decreed.

Argued by: Shri Mohd. Harun Khan, Advocate for appellants-defendants.
Shri Nayyier Kadar, Advocate for respondent-plaintiff.

JUDGMENT:

1. The present appeal has been preferred by the defendants
(hereinafter referred to as appellants) against the judgment and decree dated
04.04.2025 passed by Ms. Shatakshi, the then learned Civil Judge (Jr.
Division), Nuh, vide which suit filed by the plaintiff (hereinafter referred to

(Dr. Sushil Kumar Garg),
District Judge, Nuh
UID No. HR-0126
20.07.2026

as respondent) was decreed.

2. Trial Court record received. Same has been perused. In order to avoid confusion, parties shall be referred as per their status before the Trial Court.

3. The plaintiff has stated that he is consumer of the defendants and has taken electricity connection bearing No. G34TD/3989 bearing account No. 9889191000, installed at her premises at Tauru in her name. It has been further stated that plaintiff is paying the electricity bill regularly and nothing is due towards her. It has been further stated that defendant No. 1 served a notice bearing memo No. 451 dated 11.04.2022 and imposed penalty of Rs.62,081/- as assessment charges and served another notice bearing memo No. 452 dated 11.04.2022, demanding Rs.6000/- as compounding fee, alleging therein that the premises of the plaintiff was checked by checking team on 04.04.2022 and during checking it was found that plaintiff was using electricity directly. It has been further stated that neither plaintiff committed any theft of electricity nor any checking team checked her premises. It has been further stated that defendant did not serve any notice under Section 126 of Electricity Act to the plaintiff and as such LL1 report and both memos are wrong, illegal, null and void and same are not binding upon her. It has been further stated that defendants illegally disconnected electricity connection of the plaintiff. It has been further stated that plaintiff visited to the office of defendants and requested him to restore her electricity but defendants asked her to deposit 30% of the penalty amount

and then her son deposited Rs.19,355/- i.e. 30% of the penalty amount in the office of defendants on 26.05.2022 but defendants did not restore her electricity connection. It has been further stated that defendants are threatening to plaintiff to recover aforesaid penalty amount. It has been further stated that plaintiff requested defendants several times to get cancel the impugned memos and LL1 report but they did not pay any heed. The plaintiff has prayed for a decree for declaration to the effect that impugned notices and LL1 report are wrong, illegal, null, void and same are not binding upon her and are liable to be set aside. The plaintiff has also prayed for a decree for permanent injunction restraining the defendants from recovering any penalty amount from the plaintiff in any forcible manner.

4. Notice of the suit was sent to the defendants by the trial court. The defendants appeared and filed their joint written statement, controverting the case of the plaintiff. The defendants took the preliminary objections about the maintainability of the suit, no cause of action, no locus standi, concealment of true and material facts. It has been submitted that checking team of the Nigam checked the premises of the plaintiff and during checking it was found that plaintiff was using electricity directly with the help PVC cable through cut before meter and connected load was found as 0.33 KW for domestic supply purpose. Thereafter, checking team clicked photographs of the spot and LL1 report was prepared on the spot. It has been further stated that defendants served notice bearing memo No. G51/2022/1451 dated 11.04.2022 and memo No. G51/2022/1452 dated

11.04.2022 and directed the plaintiff to deposit penalty amount of Rs.62081/- as assessment charges and Rs.6000/- as compounding fee. It has been further stated that according to Section 145 and 154 of Electricity Act, 2003, jurisdiction of civil court was barred.

5. On the basis of pleadings of the parties, following issues were framed by learned trial Court.

1. Whether the plaintiff is entitled to a decree for declaration with injunction as prayed for? OPP
2. Whether the suit of the plaintiff is not maintainable? OPD
3. Whether the plaintiff has no cause of action and locus standi to file the present suit?OPD
4. Whether plaintiff has concealed the true and material facts from the Court?OPD
5. Relief.

6. In order to prove her case, plaintiff examined herself as PW-1 and she tendered her affidavit Ex. PW-1/A in her evidence wherein she narrated the facts of the plaint. Learned counsel for the plaintiff tendered copy of payment receipt Ex.PX and closed evidence on behalf of plaintiff vide separate recorded statement.

7. On the other hand the defendants examined Sahabuddin as DW-1, who tendered his affidavit Ex.DW-1/A. DW-1 also placed on record following documents:-

Ex.D1	:	LL1 checking report No. 37 dated 04.04.2022
Ex.D2	:	Compact Disk
Ex.D3	:	Memo No. G51/2022/1451 dated 11.04.2022
Ex.D4	:	Memo No. G51/2022/1452 dated 11.04.2022
Ex.D5	:	Memo No. 274 dated 15.04.2022 for lodging FIR

Ex.D6 : Certificate u/s 65B of Evidence Act.

Thereafter, learned counsel for the defendants closed evidence on behalf of defendants vide separate recorded statement.

8. After considering the evidence adduced by the parties and hearing the learned counsel for the parties, the learned trial court had decided issues no.2 to 5 in favour of the plaintiff. Consequently, the suit of the plaintiff was decreed.

9. Feeling aggrieved from the aforesaid judgment and decree of the learned lower court, the appellants-defendants have preferred the present appeal.

10. Perusal of Trial Court record shows that five issues were framed vide order dated 24.11.2022 by the Trial Court. The impugned judgment dated 04.04.2025 passed by the Trial Court shows that trial Court neither mentioned issues as per order dated 24.11.2022 nor all the issues were decided properly. The issues framed on 24.11.2022 and issues mentioned in the impugned judgment dated 04.04.2025 are reproduced as under:-

Issues Framed on 24.11.2022		Issues mentioned in the para No. 4 of the impugned judgment as under:-	
1.	Whether the plaintiff is entitled to a decree for declaration with injunction as prayed for ? OPP	i)	Whether the plaintiff is entitled to decree for declaration as prayed for ? OPP
2.	Whether the suit of the plaintiff is not maintainable? OPD	ii)	Whether the suit is not maintainable? OPD
3.	Whether the plaintiff has no	iii)	Whether the plaintiff has no cause of

	cause of action and locus standi to file the present suit? OPD		action and no locus standi to file the present suit?OPD
4.	Whether plaintiff has concealed the true and material facts from the court? OPD	iv)	Whether the plaintiff has concealed the true and material facts from the court and have not come with clean hands?OPD
5.	Relief	v	Relief

11. Besides this, learned Trial Court did not give any findings on issue No. 1. The record reveals that, vide order dated 24.11.2022, the learned Trial Court framed only four issues. However, in the impugned judgment dated 04.04.2025, paragraph No. 12 erroneously refers to "Issues No. 3 to 6". Further, in paragraph No. 22 of the impugned judgment, it has been observed that Issues No. 2 to 5 are decided in favour of the plaintiff and against the defendants, although Issue No. 5 pertains only to the relief clause. These apparent inconsistencies clearly indicate that the issues were neither correctly identified nor properly adjudicated.

12. The trial Court had not decided all the issues properly Nevertheless, in the relief portion of the impugned judgment, the notices bearing Memo Nos. 451 and 452, both dated 11.04.2022, were declared illegal, null and void, and the defendants were restrained from recovering the assessed amount from the plaintiff. In terms of Order XIV Rule 2(1) of the Code of Civil Procedure, 1908, the Trial Court was legally bound to pronounce its findings on each and every issue framed in the suit before granting the relief.

13. Keeping in view all facts and circumstances of the case, the

impugned judgment and decree passed by the Trial Court are set aside.

The case is remanded back to the Trial Court under Order 41 Rule 23 of CPC, with the direction to Trial Court to decide all the issues framed on 24.11.2022 and to pass afresh judgment.

14. Since the matter pertains to the jurisdiction of Sub-Division Tauru, therefore, present case file be sent to the Court of Ms.Benika, learned Civil Judge (Jr.Divn.), Tauru with the direction to pass afresh judgment. Parties are directed to appear before the court concerned on **05.08.2026** at 10:00 AM sharp. Trial Court file along with copy of this judgment be sent back to the Court concerned. Appeal file be consigned to the record room after due compliance.

Announced in open court.

Dated 20.07.2026

Vijay Kumar (Steno-I)

(Dr. Sushil Kumar Garg)
District Judge, Nuh,
(UID-HR0126)

(Dr. Sushil Kumar Garg),
District Judge, Nuh
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