



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

(219)

RSA No. 3926 of 2001 (O&M)**Reserved on : 24.02.2026****Pronounced on: 06.03.2026****Uploaded on: 06.03.2026****Sujan Singh (since deceased) through LRs and Another ...Appellants****Versus****Punjab State Electricity Board and Another ...Respondents****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL****Present:-** Mr. Ayush Sarna, Advocate
for the appellants.Mr. A.P.S. Virk, Advocate
for Mr. P.S. Thiara, Advocate
for the respondents.

VIRINDER AGGARWAL, J.

1. The present Regular Second Appeal has been preferred by the appellants-plaintiffs against the judgment and decree dated 28.08.2001 passed by the learned Additional District Judge, Patiala, whereby the appeal filed by the plaintiffs was dismissed and the judgment and decree dated 24.08.1998 passed by the learned Addl. Civil Judge (Senior Division), Patiala, was upheld to the extent that the suit was dismissed on the ground of lack of jurisdiction, though the impugned electricity demand was concurrently held to be illegal, null and void.

BACKGROUND FACTS

2. The appellants/plaintiffs was running the business of a bar and restaurant under the name and style of M/s Green Bar and Restaurant, The Mall, Patiala since 1960. They were granted an industrial power connection (Account No. 30/15) for air-conditioning and refrigeration plant after due inspection and



sanction of industrial load in the year 1960. A separate connection existed for lighting purposes. In or around 1987, the respondents (Punjab State Electricity Board) unilaterally re-classified the industrial connection as “commercial” by applying Commercial Circular No. 94/86 and issued revised bills at higher rates without issuing any notice to the appellants and without obtaining their consent or amending the existing agreement. The specific bill under challenge was Bill No. 26/37/37458 dated 26.03.1997 for ₹1,04,947/-. The appellants/plaintiffs also challenged an earlier bill No. 40/7292 dated 18.05.1987 qua Account No. 181/15 and the said Circular as illegal. The appellants filed Civil Suit No. 93-R of 05.11.1998 seeking Declaration that the impugned bills and the re-classification are illegal, null and void and not binding and Permanent injunction restraining the respondents from recovering the amount or disconnecting the supply on the basis of the illegal demand and Mandatory injunction for restoration of connection. The respondents/defendants contested the suit, inter alia, pleading legality of the impugned bills.

3. Upon a meticulous examination of the pleadings and the competing claims of the parties, the learned Trial Court proceeded to frame the following issues for determination:-

1. *Whether the demand for the disputed amount by way of electricity charges is illegal and not binding on the plaintiff? OPP*
2. *Whether the suit is bad for mis-joinder of parties? OPD*
3. *Whether the matter is already sub-judice in another suit? OPD*
4. *Whether the suit is malafide, false and vexatious? OPD*
5. *Whether the plaintiff is entitled to the relief claimed? OPP*
6. *Relief.*



4. Both parties were afforded full and adequate opportunity to adduce evidence in substantiation of their respective claims and defences. Upon the culmination of the evidentiary proceedings, and after hearing learned counsel for the parties at length, the learned Trial Court vide judgment dated 24.08.1998 decided Issue No.1 in favour of the appellants/plaintiffs, holding the demand illegal, null and void and not binding as it was raised without notice and contrary to the sanctioned industrial load and existing agreement. However, Issue No.5 was decided against the appellants on the ground that the civil court had no jurisdiction. The suit was accordingly dismissed.

5. Aggrieved by the judgment and decree so rendered by the learned Trial Court, both sides preferred appeals before the learned Additional District Judge, Patiala. The said first appeal filed by the appellant-plaintiff, however, met the same fate and was dismissed by the learned Additional District Judge, Patiala vide judgment dated 28.08.2001, while the cross-objections filed by the respondents were also dismissed. The first appellate court affirmed the finding on the illegality of the demand but upheld the view that the civil court lacked jurisdiction. Aggrieved, the appellant/plaintiff has filed the present Regular Second Appeal.

CONTENTIONS

6. Learned counsel for the appellant/plaintiff has vehemently argued that the judgments of both the courts below are unsustainable. He submits that the facts of the present case are identical to RSA No. 2200 of 1999 (*Punjab State Electricity Board vs Joginder Singh*) decided by a co-ordinate Bench of this Court on 07.02.2000, wherein the demand was declared illegal for want of notice and it was categorically held that the civil court has jurisdiction when the Board acts without jurisdiction and in violation of principles of natural justice.



The said judgment was produced before the first appellate court (application under Order 41 Rule 27 CPC) and has been placed on record as Annexure P-1 in this appeal, yet it was not even referred to by the lower appellate court. It is further contended that once both courts below have held the demand to be illegal, the only question was jurisdiction, which stands answered in favour of the appellants by the binding precedent. No specific bar exists under the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948 when the challenge is to the very legality and validity of the demand. The unilateral change of tariff category without notice violates *audi alteram partem*.

7. On the other hand, learned counsel for the respondents has supported the judgments of the courts below on the question of jurisdiction and has prayed for dismissal of the appeal.

OBSERVATIONS AND FINDINGS

8. I have heard learned counsel for the parties at considerable length and have bestowed anxious and thoughtful consideration upon their submissions, keeping in view the pleadings of the parties, the evidentiary material brought on record, and the concurrent findings returned by the Courts below.

9. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of ***Pankajakshi (Dead) through LRs and others V/s Chandrika and others, (2016) 6 SCC 157***, followed by the judgments in the case of ***Kirodi (since deceased) through his LR V/s Ram Parkash and others, (2019) 11 SCC 317*** and ***Satender and others V/s Saroj and others, 2022(12)***



Scale 92. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

10. The core issue is whether the civil court has jurisdiction to entertain the suit when the electricity demand is found to be illegal, arbitrary, issued without notice and in violation of natural justice and the existing agreement.

11. Once the demand has been held illegal and void on merits by both the courts below, the only surviving issue is jurisdiction. This issue is no longer res integra and stands squarely answered by a co-ordinate Bench of this Court in RSA No. 2200 of 1999 (*PSEB v. Joginder Singh*) decided on 07.02.2000 (Appellant has placed on record this Judgment as Annexure A-1). The facts in that case were identical - the same building (Green Bar & Restaurant, The Mall, Patiala), industrial connection sanctioned in 1960, unilateral re-classified to commercial without notice, and challenge was to higher billing.

12. In the said judgment, the Court held that the demand was illegal for want of notice and violation of natural justice and the civil court has jurisdiction to entertain the suit for declaration and injunction because the Board acted without jurisdiction. Further held that the ruling in *PSEB v. Ashwani Kumar* (1997) does not apply when the challenge is to the very category of tariff and the demand is contrary to the agreement and stated that “It is the basic principle of law that nobody can be condemned unheard. Before any action detrimental to the interest of the litigant/consumer is taken by the Board, it was obligatory upon the Board to issue the notice. This act on the part of the Board is without jurisdiction. The civil Court will always have the jurisdiction to entertain such suits.”

13. The present case is on all fours with the aforesaid judgment. Thus, in view of the binding precedent of the co-ordinate Bench on identical facts, the



findings of the courts below on the question of jurisdiction are unsustainable. The civil court has jurisdiction when the Board's action is without jurisdiction and violative of natural justice.

14. For the reasons recorded above, the present Regular Second Appeal is **allowed**. The judgments and decrees dated 24.08.1998 (Trial Court) and 28.08.2001 (First Appellate Court) are set aside to the extent they dismissed the suit on the ground of jurisdiction. The suit of the plaintiffs-appellants is decreed with the following reliefs:

- (i) Declaration that Bill No. 26/37/37458 for ₹1,04,947/-, Bill No. 40/7292 dated 18.05.1987 and the re-classification of the connection from industrial to commercial (including Commercial Circular No. 94/86) are illegal, null and void and not binding upon the appellants;
- (ii) Permanent injunction restraining the respondents from recovering any amount on the basis of the said illegal demand or disconnecting the electric supply on that account;
- (iii) Costs of the suit and both the appeals throughout.

Decree be drawn accordingly.

15. The respondents shall be at liberty to raise any fresh lawful demand after due notice and opportunity of hearing, if so advised. Any amount already deposited by the appellants under court orders shall be duly adjusted.

16. Since the main appeal stands decided, any pending miscellaneous applications, if any, also stand disposed of.

(VIRINDER AGGARWAL)
JUDGE

06.03.2026

Saurav Pathania

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No