



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

RSA No. 995-1995 (O&M)

RESERVED ON:- 02.04.2026

DATE OF PRONOUNCEMENT:- 08.04.2026

UPLOADED ON:- 08.04.2026

PUNJAB STATE ELECTRICITY BOARD PATIALA AND ORS

.....APPELLANTS

Vs.

M/S RUPINDERA STONE CRUSHER AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. R.D.Gupta & Mr. Viresh Dahiya, Advocates,
for the appellants .

The respondent has been proceeded against
ex parte, vide order dated 09.03.2026.

AMARINDER SINGH GREWAL, J.

PRAYER

1. The present Regular Second Appeal has been filed by the appellants-defendants assailing the judgment and decree dated 26.07.1994 passed by the learned Additional District Judge, Patiala, whereby the appeal preferred by the respondents-plaintiffs was partly allowed, thereby modifying the judgment and decree dated 02.05.1991 passed by the learned Additional Senior Sub Judge, Rajpura, dismissing the suit for declaration filed by the respondents-plaintiffs.

1.1 For the sake of convenience, the parties shall be referred to in terms of their status before the learned trial Court.

**FACTS**

2. The facts which are imperative to be expounded for the adjudication of the case are that the plaintiffs, M/s Rupinder Stone Crusher through its Proprietor, had filed a suit before the learned Additional Senior Sub Judge, Rajpura (for short, the 'trial Court') for declaration, in which it is stated that the plaintiffs had been running a stone crusher at Village Lohgarh since 1974 and were consumers of electricity supplied by the appellants-defendants/Board and had been making regular payment for the electricity consumed.

2.1 The meter reading was recorded monthly by the Junior Engineer of the appellants-defendants and no irregularity had ever been reported, and the premises of the respondents-plaintiffs adjoin the office of the appellants-defendants, facilitating easy inspection.

2.2 It was alleged that the seals of the electricity connection of the respondents-plaintiffs were intact, yet the connection was wrongly disconnected on 20.07.1988, followed by a letter dated 21.07.1988 raising a demand of ₹47,860.21/- as penalty for alleged theft for a period of 30 months, ₹625/- towards cost of meter, ₹43,680/- for additional security and ₹1,629/- as surcharge for shunt capacitor.

2.3 It was further alleged that the shunt capacitor had been duly installed in the premises in question and a test report had already been submitted, and against a sanctioned load of 90 BHP, they had been using only 60 BHP, thereby negating any allegation of theft. At the end, it has been submitted that the disconnection had adversely affected their business, causing irreparable loss. Thus, on the basis of the aforesaid facts, the



plaintiffs had filed the suit for declaration and injunction.

2.4 Upon notice, the defendants, Punjab State Electricity Board and another, appeared through counsel and contested the suit by filing a written statement, wherein it was stated that the Junior Engineer visited the premises only for the purpose of recording meter readings and was not authorised to check the meter.

2.5 Further, it was submitted that vide letter dated 21.07.1988, a demand of ₹93,794.21/- had been issued, which amount was levied on the basis of the report of the Flying Squad of the Board, who inspected the premises on 20.07.1988 in the presence of Surinder Singh, Manager/representative of the plaintiffs, who had signed the checking report.

2.6 During inspection, it was found that the MCB seals of the KWH meter were missing, M&T seals were broken and hanging, seals of C.T. chambers were missing, and in collusion, the M.E. seal was found broken, and the KWH meter was found dead stop, thereby establishing a case of theft of energy.

2.7 Accordingly, a penalty of ₹47,860.21/- was imposed for a period from the last checking dated 25.09.1986. It was further pleaded that although a 5 x 5 KVA capacitor was installed, it was found disconnected and non-functional, leading to a surcharge of ₹1,629/- for six months as per the Board instructions. ₹625/- was charged towards cost of meter and ₹43,680/- was levied as additional security in terms of commercial circular No. 48/85, i.e. four times of the normal security, as this was a case of theft.



2.8 It was further alleged that the factory lights were connected to the power meter, which also constituted theft and was liable to be charged separately. The KWH meter was removed in the presence of the representative and the electricity connection was rightly disconnected. A prayer was made that the suit be dismissed.

2.9 From the pleadings of the parties, the following issues were framed by the learned trial Court:-

1. *“Whether the notice of demand dated 21.07.1988 issued by the defendants is illegal null and void? OPP*
2. *Whether this Court has got no jurisdiction to try the suit? OPD*
3. *Whether the plaint is not properly verified and signed? OPD*
4. *Whether the plaintiffs are entitled to the injunction prayer for? OPP*
5. *Relief.”*

2.10 In support of the plaintiffs’ evidence, counsel for the plaintiffs before the learned trial Court examined Rupinder Singh, the Proprietor of M/s Rupindera Stone Crusher, as PW-1 and then closed the evidence. To the contrary, counsel for the defendants examined Mukhtiar Singh, ARA, and then closed their evidence.

2.11 The learned Additional Senior Sub Judge, Rajpura, on the basis of appreciation of the evidence led by the parties, dismissed the suit of the plaintiffs vide judgment and decree dated 02.05.1991.

2.12 Against the said judgment and decree dated 02.05.1991, the plaintiffs preferred an appeal before the learned Additional District Judge, Patiala (for short, ‘the First Appellate Court’). The learned Additional District Judge, Patiala, after hearing learned counsel for the parties,



reversed the judgment of the learned trial Court and partly allowed the appeal by holding that the notice of demand dated 21.07.1988 issued by the respondents, claiming ₹93,794.21/-, was wrong, unlawful and illegal, and the respondents are permanently restrained from disconnecting the electricity supply of the appellants for non-payment of the disputed amount of ₹93,794.21/- otherwise than in due course of law, vide judgment and decree dated 26.07.1994.

2.13 Aggrieved against the said judgment dated 26.07.1994 passed by the learned First Appellate Court, the appellants-defendants have approached this Court challenging the same.

ARGUMENTS ON BEHALF OF THE APPELLANTS

3. Learned counsel for the appellants has contended that the impugned judgment and decree dated 26.07.1994 passed by the learned First Appellate Court is legally unsustainable, as the plea of violation of principles of natural justice was never raised in the plaint and cannot be considered *de hors* the pleadings.

3.1 It has also been contended that the learned trial Court lacked jurisdiction in view of the settled law and the specific bar applicable to such disputes, which aspect has been erroneously ignored.

3.2 It is further argued that the impugned judgment is non-speaking and incomplete, as it fails to notice or deal with any contention raised on behalf of the appellants and does not even discuss, much less reverse, the categorical finding of theft of electricity recorded by the learned trial Court on the basis of broken and tampered seals and a dead stop meter.



3.3 It is also contended that the learned First Appellate Court failed to consider the binding notification dated 19.06.1985 amending Clause 33 of the Indian Electricity Act relating to theft of energy, which expressly permits disconnection without notice, and which was neither challenged by the plaintiffs nor could have been ignored. Rather, the appellate Court wrongly assumed jurisdiction akin to a constitutional court by overlooking and reinterpreting a statutory provision, contrary to settled principles of interpretation.

3.4 It is further argued that the learned First Appellate Court relied upon the judgment of this Court in Punjab State Electricity Board, Ludhiana and another vs. Ashwani Kumar, AIR 1993 Punjab & Haryana 197; however, the said judgment was set aside by the Hon'ble Supreme Court in Civil Appeal No. 2507 of 1997 (arising out of SLP (C) No. 5379 of 1993), decided on 14.03.1997.

3.5 Thus, it was prayed that the appeal be allowed and the impugned judgment and decree dated 26.07.1994 passed by the learned Additional District Judge, Patiala, be set aside and the well-reasoned judgment of the learned trial Court be restored.

RESPONDENTS STATUS

4. The respondents in the present appeal have been proceeded against *ex parte* vide order dated 09.03.2026 and no one has put in appearance on behalf of the respondents.

FINDINGS

5. On hearing the above submissions of learned counsel for the appellants and after going through the entire record, it transpires that the



learned trial Court had framed issue No. 2 as under:-

XXXX XXXX XXXX XXXX

2. *Whether this Court has got no jurisdiction to try the suit?
OPD*

XXXX XXXX XXXX XXXX

6. In the case in hand, the premises of the respondents M/s Rupinder Stone Crusher and another were checked by the appellants— Punjab State Electricity Board, Patiala, and the report of the Punjab State Electricity Board, Patiala, was got exhibited as Ex. D-1 before the learned trial Court. The report is reproduced as under:-

“M/s Rupinder Stone Crusher A/c No. JMS-4/MS, 3 phase 4 wire 3 x 100/5 amps, M&I Ganz make meter bearing guide No. PTA-45937 Sr. No. 699333 found installed at meter reading 149946 CT ratio 3 x 100 x 5 amps. NCB seal missing. MTC Seal S-2-1240=2 nos. intact. M&T seals top S1-MT-28 (lash wire found broken), IHS & RHS S1-MT-28 (lash wire found broken and seal just hanging on both the LHS and RHS seals guidelines). The MCB and CT chamber seals were found missing. KWH meter was observed as dead stop on yellow and blue (2 phase) due to CT leads joint found loose. When per phase working test was carried out with meter load, the consumer was found stealing the energy by stopping the disc of the meter. The said meter was not recording any energy while the load of the consumer was running, thus the stealing of energy was going on at site. All 3 nos. M&T seals bearing impression S1-MT-28 (1 no. each on LHS, RHS and top) were having lash wire broken. Out of the said seals, 3



nos. seals of LHS and RHS were just hanging at the point of seal when broken lash wire, while top side seal was also having lash wire broken but the same was not existing in hanging position.”

7. From the above, it is evident that it was a case of theft of electricity/energy. The said report was made in the presence of Surinder Singh, Manager/representative of the consumer.

8. In Clause 33 of the Indian Electricity Act, as amended vide notification dated 19.06.1985, it unequivocally provides that in case of theft of energy, including where seals are found tampered or missing, the electricity supply of the consumer may be disconnected forthwith without any prior notice. The said provision being clear, mandatory and binding, this Court finds that there is no scope for importing any requirement of notice.

9. In the instant case, once the allegations of theft were supported by the inspection report indicating broken and missing seals and a non-functional meter, the action of the defendants-Board in disconnecting the electricity supply without notice was strictly in consonance with the said clause and, therefore, cannot be termed illegal or arbitrary.

10. The Hon'ble Supreme Court of India in **Punjab State Electricity Board** vs. **Ashwani Kumar**, 1997 (3) RCR (Civil) 147, decided the controversy as to whether the civil Court would be justified in entertaining the suit and granting injunction as prayed for. It was held in Punjab State Electricity Board's case ('*supra*') that Section 9 of the Code of Civil Procedure, 1908, provides that the civil Court shall try all suits of a civil nature, subject to pecuniary jurisdiction, unless their cognizance is



expressly or by necessary implication barred, and it was further held that such a suit would not be maintainable. Rather, in Punjab State Electricity Board's case ('*supra*'), it was held by the Hon'ble Supreme Court of India that, by necessary implication, the cognizance of civil cause has been excluded.

11. As a consequence, the civil Court shall not be justified in entertaining the suit and granting a declaration without directing the party to avail the remedy provided under the Indian Electricity (Supply) Act and the instructions issued by the Board in that behalf from time to time, as stated above.

12. Even the Hon'ble High Court of Kerala, in **Kerala State Electricity Board, represented by Secretary and others** vs. **P.M. Hospital, Mavelikkara, represented by Dr. M.P. Phillip, Managing Partner** (AS No. 733 of 2000), decided on 23.11.2011, held that the jurisdiction of the civil Court is barred in cases involving assessment made by the Electricity Board under the Electricity Act, where efficacious statutory remedies are available to the aggrieved party.

13. A similar view was also taken by this Court in **Kaptan Singh** vs. **Sub Divisional Officer, Dakshin Haryana and others** (RSA No. 1506 of 2013), decided on 20.02.2019.

14. In the light of the discussion above, this Court finds that the learned First Appellate Court has recorded its findings on the judgment cited as AIR 1993 Punjab & Haryana 197 ('*supra*'), but, as discussed above, the Hon'ble Supreme Court of India has set aside the said judgment, and thus the very foundation of the impugned judgment stands vitiated in law. As such, the said judgment has no binding value, and consequently, the



impugned judgment and decree dated 26.07.1994 passed by the learned Additional District Judge, Patiala, are hereby set aside, and the same records no binding value.

15. Accordingly, the present appeal is allowed, and the judgment and decree dated 02.05.1991 passed by the learned Additional Senior Sub Judge, Rajpura, are upheld/affirmed, as the civil Court has no jurisdiction to try the case.

16. Pending miscellaneous application(s), if any, shall also stand disposed of.

APRIL 08, 2026

(AMARINDER SINGH GREWAL)

nitin

JUDGE

Whether Speaking

Yes

Whether Reportable

Yes