2025:CGHC:61971

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Judgment Reserved on 09.10.2025

Judgment Delivered on 23.12.2025

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FA No. 263 of 2005

M/s Vishwanath Rice Mill A Partnership Firm Incorporated And Registered Under Indian Partnership Act, Registered Office At- Village Batari, Post And Tahsil- Saraipali, District- Mahasamund, (C.G.)

... Appellant (s)

versus

1 - Chhattisgarh State Power Distribution Company Limited Through Its Managing Director, Daganiya, Raipur, Chhattisgarh- 492013

2 - Assistant Engineer Chhattisgarh State Power Distribution Company Limited, Saraipali Division, Village Bataria, District Mahasamund, Chhattisgarh

... Respondent(s)

For Appellant	:	Mr. Harsh Dave, Advocate
For Respondents	:	None appears though served
For State	:	Mr. Kalpesh Ruparel, Panel Lawyer

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

CAV Judgment

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1. This appeal is filed by the appellant/plaintiff challenging judgment and decree dated 14.11.2005 passed by learned First Additional District Judge, Mahasamund in Civil Suit No. 18-A/2003, whereby learned trial Court dismissed the suit filed by appellant/plaintiff.

2. Facts relevant for disposal of this appeal is that appellant/plaintiff filed a suit for declaring the electricity bill dated 07.08.2003 amounting to Rs.1,60,610/- to be illegal and also grant of permanent injunction restraining the defendants from disconnecting power supply line of plaintiff’s rice mill. It was averred by the plaintiff that plaintiff is a partnership firm duly incorporated and registered under Indian Partnership Act running a rice mill at village- Betori, Tahsil- Saraipali, District- Mahasamund. Plaintiff’s firm complied with all the demands of defendants and got the power line installed in its premises by paying requisite fee. On 17-06-2003, a sudden inspection of plaintiff's Mill was carried out by Vigilance Officers of defendant-Department and a panchnama was prepared, in which it was stated by plaintiff’s firm that as one of the power supply line of Mill got damaged in an accident involving a truck , new cable was laid down and made operational, but the officer of the Electricity Department, finding that plaintiff’s Firm was running Rice Mill by stealing electricity, raised demand of Rs.1,60,610/- on 02-08-2003. When the demanded amount was not paid, a letter to disconnect power supply of plaintiff’s rice mill was issued on 07-8-2003. It was pleaded that it is the employee of the electricity department themselves who have installed new power supply cable replacing the damaged one, however, defendant illegally raised a demand from plaintiff to pay amount of Rs.1,60,610/-.

3. Respondents/defendants filed their written statement denying the pleadings made by plaintiff and further pleaded that as the plaintiff's rice mill is situated more than 100 metre from National Highway, there is no possibility of occurring any accident by any truck causing damage to electricity supply cable. Had occurrence of accident been true plaintiff's firm would have lodged a report for it. Ground taken by the plaintiff of damaging electricity supply cable due to accident is incorrect. After conducting MRI of electric metre installed at the premises of plaintiff electricity theft was detected. Premise of the plaintiff was inspected and panchnama to that effect was prepared in presence of one of the partner Pradeep Agrawal. There is no illegality in raising demand of Rs.1,60,610/- and without paying the electricity bill, plaintiff is not entitled to get benefit of power supply.

4. Learned trial Court after considering the pleadings made by both the parties, documents available on record dismissed the suit filed by the plaintiff holding that plaintiff failed to prove pleadings made in plaint.

5. Learned counsel for the appellant/plaintiff would submit that learned trial Court failed to consider that before serving final assessment bill, show cause notice as envisaged under Section 126 of the Electricity Act 2003 has not been issued to appellant/plaintiff. No notice calling objection on the preliminary assessment has been issued to appellant and, therefore, the amount of bill as assessed by the respondent vide Ex.P-12 is not sustainable. He also submits that there is no specific outcome of preparing any document that plaintiff/appellant was stealing electricity at the time of inspection of rice mill premises. Finding recorded by learned trial Court is perverse. In support of his contention,

he places reliance upon the decisions in the case of **Executive Engineer, Southern Electricity Supply Company of Orissa Ltd. (Southco) and Anr. Vs. Sri Seetaram Rice Mill** (2012) 2 SCC 108, **Dakshini Haryana Bijlivitran Nigam and Ors. Vs. Santokh Singh** (2018 SCC OnLine P & H 7692) and **Narveer Singh and Ors. Vs. Dakshin Haryana Bijli Vitran Nigam Ltd and Anr.** (2020 SCC OnLine P & H 4990).

6. There is no representation on behalf of respondents No. 1 & 2 even after service of notice.

7. I have heard learned counsel for the parties and also perused the record of trial Court.

8. Perusal of plaint would show that plaintiff has sought relief of declaration of bill dated 07.08.2003 of Rs.1,60,610/- to be illegal, bad in law and against provision of law and further relief of permanent injunction restraining defendant and its servants from disconnecting power supply of plaintiff firm’s service connection No.007309 on account of non-payment of illegal supplementary bill dated 07.08.2003 of Rs.1,60,610/-.

9. In pleadings of plaint it is pleaded that plaintiff’s rice mill is having power supply from defendant with load capacity of 70 HP for running rice mill. Defendants officials time to time inspects plaintiff’s premise. It was inspected on 14.09.2001 and recently on 05.02.2003. It is also pleaded that on 06.03.2003, one truck damaged electric pole from where supply wires were laid for supply of power of plaintiff’s rice mill in an accident. Accident was so severe that electricity supply cable got burst due to which there was failure of power supply. It was

immediately informed to defendant No.1. However, information/complaint made was not responded. Considering that failure of power supply has stopped the production and operation of rice mill causing huge losses, plaintiff himself got repaired the fault and changed the part of burst cable at his own cost with intimation to defendant No.2 through private electrician On 17.06.2003, vigilance wing of Electricity Department came for inspection and prepared panchnama of lying extra cable wire in plaintiff's premises. At the time of spot inspection representative Mr. Pradeep Agrawal was summoned and panchnama was prepared at his presence and he also signed panchnama. However, signature was obtained by keeping Pradeep Agrawal in dark, stating that, it is only a formality. Supplementary bill was served thereafter . It is also pleaded that letter dated 02.08.2003 was served without giving any opportunity of hearing .

10. Defendant submitted written statement to the plaint denying all the adverse pleading made therein. It was pleaded that even when inspection was done on 14.09.2001, inspecting team found that from electricity connection for purpose of operating rice mill, welding machine was being run for which additional bill of Rs.23,148/- was issued which was deposited by plaintiff . Panchnama subject matter of civil suit was prepared in front of representative of plaintiff Pradeep Agrawal . It is also pleaded that plaintiff premises is situated at about 100 metre away from national highway road and therefore pleading made in plaint that electric pole was dashed by truck is unbelievable. It is also pleaded that, had it been such a case plaintiff would have lodged a report in this regard to concerned police station, when police station is only about 5 k.m. away. The defence taken by plaintiff of the

accident caused by a truck to electric pole is an afterthought. It is also pleaded that on 17.06.2003 inspection was done by team constituted of Mr. S.D. Velem, Executive Engineer (Vigilance), Raipur, Mr. Sharad Kumar Shrivastava, Additional Superintending Engineer (Vigilance), Bilaspur, Mr. I.D. Dongre, Assistant Engineer, CSEB, Mr. R.B. Agrawal, Executive Engineer, CSEB, Raipur, Mr. R.S. Patel, Assistant Engineer (Vigilance), CSEB Raipur. The inspecting team had completed the inspection work in front of Pradeep Agrawal (consumer). Inspection team found one extra cable laid underground and its length was up to transformer. It is also pleaded that main machine of mill was also inspected. The relevant part was opened and it was found that another end of cable was coming out from the ground in which also connector was attached. Underground cable would not have been detected in ordinary inspection of the premises. It is also pleaded that based on suspicion of theft of electricity, computer chip of electric meter was tested through MRI from which it revealed that there was theft of electricity and therefore additional electricity bill was served to plaintiff. It is further pleaded that after sending of additional bill of Rs.23,148/- if there is any irregularity in conducting inspection or any grievance against amount of additional bill raised, plaintiff could have submitted application/representation before the concerned authority of Electricity Department. However, no such application/representation was submitted and he straightway filed civil suit. There was a Dispute Redressal Cell, however, no application is filed before such Cell/Committee. Plaintiff was given notice, as also bill in accordance with law. Plaintiff to prove pleading in plaint has produced the certificate of registration of firm as Ex.P-1C, deed of partnership as Ex.P-2C, copy

of spot inspection report as Ex.P-3 dated 14.09.2001 and Ex.P-4 dated 01.02.2001, letter of plaintiff dated 08.05.2009 Ex.P-5, spot inspection report dated 05.02.2003 as Ex.P-6, panchnama dated 05.02.203 as Ex.P7 , letter dated 06.03.2003 of plaintiff to Electricity Department as Ex.P-8, spot inspection report dated 17.06.2003 as Ex.P-9C, Spot map as Ex.P-10C, additional bill as Ex.P-11 and letter dated 07.08.2003 of the defendant to plaintiff demanding amount of additional bill Ex.P-12.

11. Defendants in support of their reply/written statement have submitted spot inspection report as Ex.D-1, Sport Map as Ex.D-2, calculation of additional electricity charges as Ex.D-3, load survey data as ExD-4.

12. Plaintiffs have examined Pradeep Agrawal as PW1, Sukhraj Singh as PW2, Sevaram Agrawal as PW3 and Shambhunath Pandit as PW4. Pradeep PW1 the partner of plaintiff as also signatory of panchnama in whose presence inspection was done and panchnama was prepared. In his examination in chief he stated according to pleading made in the plaint. In cross-examination this witness admitted that he is in business since 1998. His rice mill is situated within 250-300 metre away from national highway . He also stated that electricity supply line did not burst due to accident with truck and thereafter had tried to clarify that electric pole got burst in accident. Cable was not burst . He also admitted that when electricity supply failed on 06.03.2003 and there was delay in coming of employees of Electricity Department for rectification and restoring power supply, one private Electrician was called and electricity supply was restored and it is he who informed that due to high voltage electric cable is burst and thereafter it is the employees of Electricity Department who came there brought the

electric cable lying in his another plant and connected it to supply electricity to plaintiff's rice mill.

13. From aforementioned facts it is appearing that plaintiff was also getting the defects in the electricity supply to be rectified from private person without awaiting for employee of Electricity Department. He also admitted that he is not in position to state name of employees of Electricity Department who brought electric cable from another plant of witness (partner of plaintiff firm).

14. This witness is one of partner of plaintiff . When the inspecting team reached to plaintiff rice mill, employees of rice mill informed this witness (partner) upon which he came to rice mill and in his presence inspection of plaintiff's premise was conducted. He also admitted that when inspecting team stated that panchnama is prepared, put signature on it, he signed panchnama without reading it . Copy of panchnama was not handed over to this witness -cum -partner immediately on the spot but it was sent to him after 15-20 days. Laying of extra cable in rice mill premises was admitted by this witness. However, this witness denied that by connecting one cable with the mill, electric meter runs and by connecting other cable with mill meter not runs. He also admitted that Sukhraj Singh one of witness is employee of rice mil. Sukhraj Singh is examined as PW2. In his evidence he stated that he is not recollecting who came and corrected the fault of power supply. It is also stated by this witness that at the time of inspection, inspecting team was continuously talking with his employer i.e. PW1. He also admitted that he went to mill premise and clicked photograph. Burst cable were removed about 6-7 months ago.

This witness could not able to state as to through whom he has sent the complaint/information about failure of electricity on 06.03.2003. Though he stated that complaint of electricity failure was given on 06.03.2003 but through which employee he could not able to state today. Cross-examination of this witness was done in the month of September 2004. Seva Ram Agrawal another partner is also examined as PW3. In para-9 he stated that at the time of inspection two cables were found laying underground and one of cable was not in running condition as it was burst. Both of its ends were cut. He also admitted that plaintiff rice mill is about 300-350 metre away from National Highway and transformer is situated within 30 metres of mill premises and electric meter is installed about 30 metre from transformer. This witness has also stated that on 06.03.2003, the accident of electric pole with truck was intimated and also stated that due to accident electric cable connected with transformer was burst. Copy of notice/information is Ex.P-8. Perusal of Ex.P-8 would show that it only mentions that cable wire which is connected with mill from transformer got burst and prayed for early rectification of error. There is no mention of reason as to how electric wire burst or it burst due to accident of electric pole with which electric cable is connected is dashed by truck nor any report is made to concerned police station in this regard.

15. Shambhunath Pandit PW4 in his evidence has stated that about 2 years ago Achutya Panda Electrician was called for removing fault of electricity failure in plaintiff premise. In cross-examination he admitted that he has not seen electric cable but it was informed to him by Achutya Panda Electrician. This witness also stated that at the time

when he visited to plaintiff rice mill, Pradeep Agrawal PW1 , Sewa Ram Agrawal PW5 were also present along with others, however, no reason has been assigned as to how electric cable got burst .

16. From the evidence of plaintiff available in record it is prima facie appearing that defence of damage to electric pole in an accident with truck and consequentially electricity supply cable got burst is taken however no report is made in this regard to the concerned police station or no complaint is made to Electricity Department specifying the said fact. In absence of any such proof the plea taken by plaintiff that bursting of cable is due to dash of electric pole with truck cannot be accepted. In absence of any specific evidence it is also appearing that the plea/defence taken of damage of electric pole due to accident appears to be an afterthought. Inspecting team has not recorded any such fact while preparing panchnama even when one of partner Pradeep Agrawal was present at the time of inspection, preparation of panchnama and he is also one of signatory to panchnama. If the fact of accident was available on the date of accident, it would have brought to notice by PW1 (partner) to inspecting team, and would forming part of inspection report.

17. Defence has examined R.B. Agrawal as DW1 . In his evidence he clearly stated that on 17.06.2003 he along with other employees has inspected the plaintiff’s rice mill premise. He also stated that after visiting rice mill premises, when the owner of mill was not found, employees were asked to call owner of mill upon which Pradeep Agrawal came there and in front of him inspection of mill was conducted. He also stated that near transformer a pit was dug which

was covered with piece of tin plate and upon removing tin, it was found that cable through which power supply is done upto meter, another cable was lying beside it in which also four lugs were found. Upon finding it to be suspicious, on suspicion of theft of electricity, MRI of computer chip of electric meter was done from which it revealed that it was manipulated and the fact of theft was found to be correct. He also stated that Pradeep Agrawal was present during inspection and he also signed panchnama. After inspection, he was supplied copies of documents prepared on the spot itself. At the time of inspection other cable lying was in good condition. It is underground and therefore there is no occasion for bursting of cable even with accident of truck. He admitted that extra cable laying from transformer to mill along with power supply cable was not found burst but in good condition, it was tested.

18. Suit is filed by plaintiff and therefore it is burden upon plaintiff to prove the fact as pleaded in the suit. From facts and evidence as discussed above, plea taken by plaintiff that truck dashed electric pole by causing accident resulting in bursting of electric cable is not proved for want of admissible evidence. The very reason/ground taken by plaintiff of bursting of electric cable is not proved. Further, it is not case that upon complaint it is the Electricity Department came there and found the power supply cable from transformer to the mill of plaintiff burst and changed by the Electricity Department or it is changed through employee of defendant department. In fact it is the pleading and statement of plaintiff that when for some time employee of Electricity Department has not come they got it changed through private

electrician and for which extra electric cable lying in another plant was being used by them . Such evidence of plaintiff is not transpiring confidence and therefore in the opinion of this Court learned trial Court has not accepted such evidence and plea of plaintiff . Such view of trial Court in the opinion of this Court, cannot be said to be erroneous. Civil Suits are to be decided on the touchstone of preponderance of probabilities. There is no evidence available in record to accept plea and defence taken by plaintiff more so when it is admitted by partner of plaintiff mill, Pradeep Agrawal that in his presence inspection was done by the vigilance team of Electricity Department, put signature, but have stated that he put signature without reading it. In the facts of case, it cannot be accepted without a pinch of salt. If for any reason it is a case that wrong inspection report/panchnama is prepared, plaintiff could have filed appropriate application/complaint to higher authority which has not been done in this case.

19. Decision relied upon by learned counsel for appellant in case of **Sri Seetaram Rice Mil**l (supra) is on different facts. In that case, after inspection of mill premise, officers of the concerned department prepared dump report, mentioning- “dump of the Meter taken. Calibration of meter done and error found within limit. If any abnormality detected in Dump, it will be intimated later on”. It is the case of respondent therein/businessman that no intimation was given to it of finding of defects if any. In those facts of case, judgment was rendered.

20. In case of **Narveer Singh** (supra) case of plaintiff therein/businessman was that just before inspection, new meter was installed by the

employees of Electricity Department on 24.06.2015 and upon inspecting the premises on 30.06.2015 they reported theft of electricity. Pleading of plaintiff in that case was that, on inspection it was found that block of meter was burnt and therefore it was found to be defective and further there was a evidence of witness in cross-examination that neither case of theft of energy nor malpractice was apparently made out and that the meter was found to be ‘dead stop’ and hence, the decision relied upon by counsel for appellant will be of no help of him, it being distinguishable on facts.

21. In view of the foregoing discussions, I do not not find any infirmity or illegality in judgment passed by learned trial Court.

22. Appeal being sans merit is liable to be dismissed and is hereby dismissed.

23. Let a decree be drawn accordingly.

Sd/-
(Parth Prateem Sahu)
Judge

Praveen