

JUDGMENT SHEET
IN THE HIGH COURT OF SINDH, KARACHI

H.C.A. No.311 of 2014

Date	Judgment with signature of the Judge
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K. Electric & anotherVs. Johar Muhammad Khan & others

04.02.2025.

Mr. Ali Abid Zuberi, advocate for Appellants.
None present for respondents.

J U D G M E N T

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MUHAMMAD IQBAL KALHORO J: Respondent No.1 filed a Suit No.1276/2014 before this court on original side against appellant for declaration, cancellation and permanent injunction seeking multiple reliefs essentially against electricity bill issued by appellants. After being served, appellants filed written statement contesting on merits, the claims made by respondent No.1.

2. Learned Single Judge vide impugned order dated 17.01.2014 without recording evidence of the parties disposed of the suit by referring the matter to the Electric Inspector for determination of arrears against respondent No.1 by making a reference to previous three months bills as a criterion to make such determination. At the same time, he directed appellant No.1 to restore supply of electricity to respondent No.1 within one week after payment by him of Rs.40,000,00/-.

3. Learned counsel for appellant has submitted that in terms of section 26(6) of Electricity Act, 1910 (Act, 1910), the Electric Inspector has jurisdiction to entertain the matter when consumer through manipulation or tampering with meter equipment or other similar apparatus steals electricity. In the case, when theft of electricity has been committed by means other than tampering or manipulation in meter equipment, the Electric Inspector would not have the jurisdiction to adjudicate upon such matter and pass any order. He has further submitted that learned single judge without recording evidence directed appellant No.1 to receive Rs.40,00,000/- from respondent No.1 and restore supply of electricity to him although the detection bill outstanding against respondent No.1 was to the tune of Rs.3,40,00,000/-, which requires evidence to be recorded to thresh out the actual amount to be paid by respondent No.1.

4. The record reflects that respondent No.1 was served in this case and Raja Aftab Ahmed Khan advocate had filed power on his behalf. This appeal has been

pending since 2014 but respondent No.1 has not taken much interest to pursue it. Even after demise of his advocate, he has remained absent. Today also, respondent No.1 is called absent without any intimation. On the last date of hearing viz. 02.05.2024, when this case was taken up, it was observed that if respondent No.1 failed to appear on next date, this matter will be heard and decided on the basis of material available on record. Therefore, we have read impugned order and other material available on record and heard learned counsel for appellants.

5. A bare perusal of section 26(6) of the Act, 1910 makes it abundantly clear that in the matter where theft of electricity is committed by the consumer through means other than tampering or manipulation of meter equipment, the matter would not fall within jurisdiction of Electric Inspector to decide. This clear cut command of law however, was ignored by learned single judge at the time of passing the impugned order and he did not consider the fact that this was not a case of theft of electricity through meter equipment. Besides, he directed the appellants to receive Rs.40,00,000/- from respondent No.1 and restore supply of electricity without recording evidence or giving any reason to fixation of the said amount or a justification to warrant payment of that amount in presence of demand of Rs.3,40,00,000/-. The impugned order is completely without reasons in this regard. It is settled proposition of law that any finding of the court which is not supported by a reason will not be sustainable.

6. The respondent No.1 having been given so many opportunities has failed to appear to present his point of view in this case. But in any case, in view of the above discussion, we are of the view that impugned order is not sustainable in law, hence is set-aside. Resultantly, the matter is remanded to the learned single judge of this court for proceeding with the suit on merits in accordance with law after affording a proper opportunity of hearing to both the parties in accordance with law.

The appeal is accordingly disposed of alongwith pending applications.

JUDGE

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