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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of Decision: 12<sup>th</sup> August, 2016*

+ RFA 158/2005  
NDPL

..... Appellant

Through: Mr. Sheetesh Khanna with Mr. Sushil  
Jaswal, Advocates

versus

REDYANT RUBBER

..... Respondent

Through: Ms. Sonali Malhotra with Mr. Amit  
Sanduja, Advocates

**CORAM:**

**HON'BLE MR. JUSTICE SUNIL GAUR**

**JUDGMENT**

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**(ORAL)**

Impugned order of 01<sup>st</sup> December, 2004 declares that the impugned demand bill is illegal and restrains the appellant herein from disconnecting the electricity supply to the respondent-plaintiff.

The factual background of this case already stands noted in the impugned order, and so needs no reproduction.

At the hearing, learned counsel for the appellant has assailed the impugned order on the ground that the sanctioned load was 18.65 KW at the premises, in question, but the connected load found by the Joint Inspection Team was 45.59 KW and so, the demand bill was justified and legal.

Learned counsel for the respondent submits that the stand now taken has not been disclosed in the appeal and in any case, the stand

of appellant has been dealt with in para 13 of the impugned order.

Reliance has been placed by respondent's counsel upon the decision in *Col. R.K. Nayar (Retd.) Vs. BSES Rajdhani Power Ltd. 140 (2007) DLT 257* to submit that comparison of commuted consumption and recorded consumption cannot lead to inference of Fraudulent Abstraction Energy (FAE).

Upon hearing and on perusal of the impugned order, the evidence on record and decision cited, this court finds that it is noted by the Trial Court in paragraph No. 13 of the impugned order that comparison of consumption pattern would not be justified because the electric meter was found to be intact except that the paper seal pasted on it by appellant had given way due to rusting. In the decision given by a Coordinate Bench of this Court in *R.K. Nayar (Supra)* it has been already declared that for detection of Fraudulent Abstraction Energy (FAE) an accu check meter is required to be used and comparison of the computed consumption with the recorded consumption by itself cannot lead to an inference of FAE.

In the considered opinion of this court, in view of the evidence on record and dictum of the Supreme Court in *R.K Nayar (Supra)*, the impugned order does not suffer from any illegality or infirmity. As such, this appeal is dismissed. Parties are left to bear their own costs.

**(SUNIL GAUR)**  
**JUDGE**

**AUGUST 12, 2016**  
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