

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No. 4694 of 2013 (O&M)

Date of Decision: 23.01.2015

M/s G.M.P. Finishing Mills and another

.....Appellants

Vs.

Punjab State Electricity Board and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Suvir Sehgal, Advocate,
for the applicants-appellants.

AMIT RAWAL, J. (ORAL)

C.M. No. 12636-C-2013

This is an application under Section 5 of the Limitation Act, 1963, for condonation of delay of 132 days in filing of the appeal.

For the reasons, mentioned in the application, which is duly supported by an affidavit, delay of 132 days in filing the appeal is condoned.

CM stands disposed of.

CMs No. 12637-38-C-2013

In view of the order, passed in the main appeal, learned counsel for the applicant-appellants does not want to press the application.

Dismissed as not pressed.

RSA-4694-2013

Learned counsel for the appellants-plaintiffs very fairly submitted that the suit of the appellant-plaintiff, in view of the provisions of

Sections 126 and 145 of the Electricity Act 2003, before the Civil Court at Amritsar, was not maintainable and, therefore, seeks permission of this Court to withdraw the suit and to challenge the memorandum No. 1283 of 05.07.2004 and as well as the imposition of sur-charge @ 20%, on the basis of circular dated 12/1997, whereby the appellants-plaintiffs have been imposed a low tension surcharge.

The prayer of the learned counsel for the appellant-plaintiff is justified.

The appellants-plaintiffs are permitted to withdraw the suit with liberty to avail alternative remedy, as enshrined under Section 126 of the Electricity Act 2003, in accordance with law.

However, it is made clear that in case, appellants-plaintiffs file an application under Section 126 of the Electricity Act 2003, with an application for condonation of delay, the same shall be considered sympathetically.

Accordingly, the findings recorded by both the Courts below would not be effected on the application while seeking the alternative plea under Section 126 of the Electricity Act 2003.

In view of the above, the appeal is, accordingly, disposed of with the liberty as aforesaid.

(AMIT RAWAL)
JUDGE

January 23, 2015
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