IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.1117 of 2015 (O&M)
Date of Decision: 26.03.2015

Ghanshyam Dass ...Appellant

Versus

Dakshin Haryana Bijli Vitran Nigam ... Respondent

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Suman Jain, Advocate,
for the appellant.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

The learned lower appellate court has committed no error in holding that the jurisdiction of the Civil Court is barred in matters relating to supply of electricity governed by the provisions of the Electricity Act, 2003(for short 'the Act'). The law laid down by this Court in **Hari Chand Vs. Dakshin Haryana Bijli Vitran Nigam Ltd. & anr.**, 2015(1) Civil Court Cases 528 (P&H) and **M/s Ujjal Rice Sheller Vs. Punjab State Power Corporation Ltd. & ors.**, 2011(2) Law Herald (P&H) 965, has been applied to hold that the suit is not maintainable. Besides, the learned Lower appellate Court has noticed the judgment of the Supreme Court in **U.P. Power Corporation Ltd. and others Vs. Anis Ahmad**, reported in 2013(8) SCC 491, and applied its binding dicta though the judgment was rendered in context of the consumer protection laws. The Civil Court's jurisdiction to consider a suit with respect to the decision of assessing officer under Section 126, or decision of appellate authority under Section 127 is barred under Section 145 of the Electricity Act, 2003 , which reads as under:

> "145. Civil Court not to have jurisdiction.- No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an assessing officer referred to in Section 126 or an Appellate Authority referred to in Section 127 or the adjudicating officer appointed under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act."

To be fair to learned counsel for the appellant, three judgments passed by this Court cited by him may be noticed. These are **Dakshin Haryana Bijli Vitran Nigam Ltd. & ors. Vs. N.D. Chaudhary (P&H)**, 2014(3) Law Herald 2408, **Dakshin Haryana Bijli Vitran Nigam Ltd., Panchkula & ors. Vs. Poonam Vashisth**, 2009(2) RCR (Civil) 677 and **Dakshin Haryana Bijli Vitran Nigam Ltd. & ors. Vs. Smt. Santosh Devi**, 2014(4) PLR 115. In none of these cases, the provisions of the Act and the case law on the subject was brought to the notice of the learned single Judges or dealt with.

In passing, it may be mentioned that the appellant purchased the property on 13.3.2009 with the allegedly defective domestic meter and thereafter, found its readings incorrect. He, accordingly, made a complaint to the respondent Power Corporation on 11.8.2010 to replace the meter or get the old one in working order since he felt aggrieved of being stuck with a problem over which he could have no personal control. It appears that the meter checking charges were not deposited with the request on which no action was taken and thus it is urged that demand was not raised by the Corporation on the appellant which remained the position till late. However, on 29.5.2012, the meter checking party inspected the site of defective meter and found the seals were not genuine and thereby demanded a sum of Rs.2,45,407/- from the appellant on 26.7.2012. Thereafter, fresh meter was installed and it also turned to be defected, which was discovered on 12.6.2012. Even though the suit was not maintainable it was instituted without challenging any impugned order or show cause notice served etc. on the appellant. The suit was not only maintainable, it was premature as well even if the civil Court had the jurisdiction to entertain the suit.

Therefore, while dismissing this appeal for want of maintainability and for want of any substantial question of law arising for decision, I would still in order to serve the ends of justice, give liberty to the appellant to take recourse to his remedies available either before the Special Court set up under the Act or to take resort to the redressal mechanism in the Power Corporation-respondent. It cannot be lost site of that the house is residential and the meter came with the property purchased and the Corporation owed a duty to have acted promptly on the complaint even if it is assumed that the meter checking charges were not deposited. An inspection on the spot would have resolved the problem without loss of time, electricity being not a private property of the Corporation but a national asset.

Mr. Suman Jain submits that the appellant has deposited half of the amount assessed with the Power Corporation and only half the amount remains to be paid on the bill raised. In view of the liberty granted to the appellant to take recourse to departmental remedies and in this it would appear deserving that in the meanwhile the appellant should be safeguarded against disconnection in case he makes an appropriate application before the grievance redressal authority in the Power Corporation or before the Special

Court for consideration of his case on merits. If such an application is filed within 21 days from the date of receipt of a certified copy of this order then the respondents would not disconnect the power connection and would decide the matter as expeditiously as possible. The appellant undertakes to pay his electricity bills regularly and if there are any arrears to be discharged the same would be deposited within the same 21 days, other than the amount in appeal. In passing this order ex parte respondents, no serious prejudice would be caused to the respondent-Power Corporation as their claim to the balance amount, will depend on the outcome of the determination by a competent independent agency and to refund or recover money accordingly from the appellant.

With the aforesaid liberty, the appeal stands disposed of.

26.3.2015 **(RAJIV NARAIN RAINA)**
monika **JUDGE**