

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA No. 5120 of 2013 (O&M)

Date of decision : 27.11.2015

Rajbir Singh

... Appellant

versus

The Executive Engineer and another

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. S.S. Kharb, Advocate, for the appellant.

Rajesh Bindal, J.

The plaintiff is in appeal against concurrent findings of fact recorded by both the Courts below whereby the suit filed by him for declaration and mandatory injunction was dismissed.

Brief facts of the case are that on 13.7.2010, the officials of the respondent-department came to the residence of the plaintiff and removed the electric meter. When the plaintiff came to the office of the respondents, memo nos. 1769/LA and 1771/LA dated 20.7.2010, were served upon him vide which a penalty of ₹ 49,288/- regarding theft of electricity and ₹ 24,000/- as compounding fee was imposed on him. It was alleged by the plaintiff that the officials of the respondent-department demanded illegal gratification, which was refused by the plaintiff. The plaintiff was threatened either to deposit the aforesaid amount or to face criminal proceedings. He deposited the aforesaid amount under protest. Thereafter, the plaintiff filed the suit, which was dismissed by the learned Trial Court. The appeal filed by him was also dismissed.

The learned trial Court dismissed the suit of the plaintiff on the ground that the jurisdiction of the Civil Court in the case in hand is barred in view of Section 145 of the Electricity Act, according to which, Civil Court shall have no 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 the Act is empowered by or under the 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 the Act. The meter body installed at the premises of the appellant was found to be tampered with. The theft of energy was found to be committed by him. The checking report was prepared at the spot. The meter was removed from the site and packed in a cardboard box and sealed with cello tape duly signed by the members of the checking party. The plaintiff was also present at the spot at the time of checking but he refused to sign the checking report. The appellant did not approach the Appellate Authority provided under the Act against the report of the checking staff. As far as the allegation of demand of illegal gratification made by the appellant against the officials of the respondents-department is concerned, the appellant has not led any evidence in support thereof. Only oral statement was made. No complaint was lodged by him against any of the official of the respondent-department.

Nothing has been pointed out by learned counsel for the appellant, which has been overlooked by the Courts below, in reaching the conclusion. Section 145 of the Electricity Act clearly debars jurisdiction of civil court to entertain suit of the kind in question.

For the reasons mentioned above, I do not find that the findings recorded by the learned Courts below are perverse. No substantial question of law arises. The appeal is accordingly dismissed.

27.11.2015
vs

(Rajesh Bindal)
Judge