

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.6027 of 2015 (O&M)
Date of Decision.09.12.2015

Subhash Industries

.....Appellant

Vs.

Punjab State Power Corporation Limited and another

.....Respondents

Present: Mr. Manu K. Bhandari, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The plaintiff filed a suit challenging a notice issued on 13.10.2010 complaining of unauthorized user of electric energy against sanctioned load of 44.95 KW, when a total load of 61.420 KW had been found to be used by the plaintiff. There had been a demand for deposit of ₹4,38,136/- and immediately the plaintiff had come with the suit.

2. The suit was premature and it was just not competent for Civil Court to entertain a finding of whether the demand was appropriately made or not. The appropriate procedure must have been to invite provisional assessment to be made by joining issues on the notice by the Electricity Corporation and then if a final assessment was made and if the plaintiff was still aggrieved, he could have a provision for appeal under Section 127 of the Electricity Act. The suit instituted was a clear bar to Section 145 of the Electricity Act.

3. I will not make any intervention with the judgment dismissing the plaintiff's suit but will give the plaintiff an opportunity to

make a representation which would constitute as reply to the notice issued and the Electricity Corporation will make an assessment in the manner contemplated under Section 126 of the Electricity Act and pass order after hearing the objections. If the plaintiff is not satisfied with the order, his remedy will be under Section 127 of the Electricity Act. The counsel says that during the pendency of the suit, the plaintiff has already deposited 50% of the amount as demanded which incidentally would have been the obligation on the part of the consumer who is aggrieved about the decision if he were to challenge the same by means of appeal under Section 127 of the Electricity Act. The amount already deposited will be treated as towards the claim made already and there will be no further obligation till a decision is taken. This liberty granted to the plaintiff shall not be taken as legitimizing the alleged excess load over the sanctioned load already availed to the plaintiff.

4. The representation shall be given within a period of two weeks from the date of receipt of copy of this order and the Electricity Corporation will pass appropriate orders in accordance with law as mentioned above. There will be no disconnection of electricity subject only to the fact that the plaintiff's right of consumption will not exceed the sanctioned load. For any independent finding or assessment that the plaintiff is drawing extra load, the Corporation will be at liberty to take appropriate action in accordance with law including the disconnection.

5. The second appeal is dismissed but with the liberty aforesaid.

(K. KANNAN)
JUDGE

December 09, 2015

Pankaj*