

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

RSA No.495 of 2014 (O&M)
Date of Decision.15.09.2015

Smt. Sangeeta Malik

.....Appellant

Versus

Dakshin Haryana Bijli Vitran Nigam Ltd. and others

.....Respondents

Present: Mr. Sanjay Vij, 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 appeal is at the instance of the plaintiff who brought a challenge to the validity of the notice issued under Section 126 of the Electricity Act. The contention was that the notice had been issued against the Rules. The defence was that there was a statutory provision for an appeal and the suit was not competent. The suit was dismissed. The appeal was also dismissed. In the second appeal, it is contended for the first time that the person who issued the notice was not competent to issue the notice and it should have been issued for high tension only by the XEN and it could not have been issued by the SDO. I asked the counsel whether there was any specific averment made in the plaint to make a ground for institution of civil suit without being fettered by the restriction of jurisdiction by a provision for appeal against notice under Section 126 of the Electricity Act. The counsel took time and comes to this Court a week's later and reads to me the same general statement

made in the plaint that was read to me last week itself. I heard the counsel read to me the cross-examination of the witness made and it says nothing more than the fact that it was SDO who had caused the inspection to be made and who had made the assessment. I do not think that there is any point relating to the incompetence of the officer who had issued the notice and the violation of the statute or its regulations to find a cause of action for institution of civil suit.

2. The suit was not competent. The only remedy shall be to prefer an appeal and if such an appeal is filed and if request is made for exclusion of time spent by the plaintiff in prosecuting the suit bona fide before the Civil Suit, the same will be properly considered and appropriate orders issued. The appellant shall be also entitled to plead on the validity of notice in such an appeal.

3. The second appeal is dismissed but with the liberty as aforesaid.

(K. KANNAN)
JUDGE

September 15, 2015
Pankaj*