

Civil Writ Petition No. 20280 of 2016

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

**Civil Writ Petition No. 20280 of 2016
Date of Decision: 24.10.2016**

Uttar Haryana Bijli Vitran Nigam Limited and others

.....Petitioners

Vs.

Shakeela and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Sumit Jain, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK J. (ORAL)

Feeling aggrieved against the order dated 8.4.2016 (Annexure P-3), passed by the learned Permanent Lok Adalat for Public Utility Services, Yamuna Nagar, petitioners have approached this Court by way of present writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of Certiorari, for quashing the impugned order.

Heard learned counsel for the petitioners.

It is a matter of record that it was petitioners' own case right from day one, that respondent No.1-consumer, committed theft of electricity. However, when caught at wrong foot, petitioner-Corporation sought to change its stand from the case of theft of electricity to that of unauthorized use of electricity. It is also not in dispute that no FIR was lodged at the instance of the petitioners against respondent No.1. In case, it was the stand

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taken by the petitioners that respondent No.1 committed theft of electricity, it was obligatory on their part to lodge an FIR, however, it was not so done for the reasons best known to them. In this view of the matter, no fault can be found with the order passed by the learned Permanent Lok Adalat.

A bare reading of the impugned order passed by the learned Permanent Lok Adalat would show that each and every relevant aspect of the matter was discussed in detail, dealt with and appreciated in the correct perspective, before recording cogent findings which have been found based on sound reasons. A purely technical plea raised by learned counsel for the petitioners regarding jurisdiction of the permanent Lok Adalat has not been found worth acceptance for the reason that, had the petitioner-Corporation lodged an FIR against respondent No.1, in that situation, jurisdiction would be with the Special Court provided under the Electricity Act, 2003, however, that is not the case herein.

Another similar contention raised by learned counsel for the petitioners was that before approaching learned Permanent Lok Adalat, respondent No.1 approached the District Consumer Disputes Redressal Forum under the Consumer Protection Act, 1986 and when it was found that District Consumer Disputes Redressal Forum did not have the jurisdiction, she withdrew her complaint. In such a situation, consumer-respondent No.1 would not be entitled to approach the Permanent Lok Adalat. However, when confronted as to what kind of prejudice was caused to the petitioner-Corporation in that process, learned counsel for the petitioners had no answer and rightly so, it being a matter of record.

In many cases, innocent and illiterate consumers would be looking for relief before one or other forums. Consumers would be guided

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by their learned counsel. It is not surprising that many a times, litigants, at the first instance, under bonafide wrong impression, go before a wrong forum which does not have the jurisdiction to decide the matter. However, when it comes to the notice of the litigants that said forum to whom they have approached, is not having the jurisdiction, they withdraw their petitions to file the same before appropriate forum which is having the jurisdiction to decide the matter. Unless other side, petitioners herein, show that a manifest injustice or serious prejudice has been caused, appropriate forum shall not refuse to decide the matter, at the instance of a litigant, who had been earlier pursuing his cause before a wrong forum. Similar is the case in hand. Learned counsel for the petitioners could not point out that learned Permanent Lok Adalat was not having the jurisdiction to decide the case on merits. Once it is so, learned Permanent Lok Adalat has recorded cogent findings and arrived at a just conclusion before passing the impugned order (Annexure P-3) and the same deserve to be upheld, for this reason also.

Another relevant aspect of the matter is that authorities of the petitioner-Corporation were not certain as to what allegations it is going to level against respondent No.1. On one hand, petitioner-Corporation was alleging that it was a case of theft of electricity, though no FIR was lodged against respondent No.1, and on the other hand, petitioner-Corporation tried to change its stand, alleging it to be a case of unauthorised use of electricity. Having said that, this Court feels no hesitation to conclude that respondent No.1 could not be made to suffer for the fault of the petitioners. Further, no prejudice or substantial injustice has been shown which might have been caused to the petitioners by passing of the impugned order, which may warrant interference at the hands of this Court, while exercising its writ

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jurisdiction under Articles 226/227 of the Constitution of India.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that instant writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present writ petition stands dismissed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

24.10.2016
Ak Sharma

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No