

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

RSA No.2581 of 2011 (O&M)

Date of decision : 18.05.2016

Vinod Kumar

...Appellant

Versus

Punjab State Electricity Board

...Respondent

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.**

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

Present: Mr. V.K. Sandhir, Advocate for the appellant.

Mr. Kunal Mulwani, Advocate for the respondent.

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**AMIT RAWAL, J. (Oral)**

The appellant-plaintiff is aggrieved of the judgment and decree rendered by the lower Appellate Court, whereby appeal at the instance of the Electricity Board against the judgment and decree of the trial Court, decreeing the suit for declaration, has been reversed.

Mr. Sandhir, learned counsel appearing on behalf of appellant-plaintiff submits that alleged demand Ex.D5 dated 01.04.2005 seeking declaration with regard to the charging the rate as per the large scale connection was decreed by the trial Court, but the Lower Appellate Court erroneously reversed the same by giving findings that plaintiff has not been able to prove on record whether both connection or third connection which

according to the plaintiff had been disconnected, can run in one premises in the absence of any site plan thus the lower Appellate Court has committed illegality and perversity in not appreciating the aforementioned fact and rather has non-suited the plaintiff on the ground of having not leading any evidence contrary to what has been noticed in the demand notice and thus urges this Court for formulation of the substantial question of law as culled out in the memorandum of appeal.

Mr. Kunal Mulwani, learned counsel appearing on behalf of respondent submits that suit ex facie was not maintainable as the demand was raised under the provision of Section 126 of the Electricity Act. Consumer did not file any objection though there was no occasion for passing of final assessment order against provisional demand Ex.D5 and suit as per provisions of Section 145 of the Act was not maintainable, in essence, Civil Court did not have jurisdiction.

I have heard learned counsel for the parties and appraised the paper book and of the view that any demand raised with regard to unauthorized connection as per the provision of Section 126 of the Act, remedy if any is to file first objection and then appeal under Section 127 if the objection have not been held to be tenable but cannot invoke the jurisdiction of Civil Court. For the sake of brevity, Section 145 of the 2003 Act, reads thus:-

*“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.”*

Faced with this situation, Mr. Sandhir, learned counsel for the appellant-plaintiff submits that his client may be given chance to file objections against the alleged demand Ex.D3 and thereafter competent authority after affording opportunity, as envisaged under the statutory provisions of the Act pass the final assessment order and in case his client is satisfied with the assessment order, there would be no common remedy, if otherwise, would seek remedy as per provisions of Section 126 of the Act.

I am in agreement with the submission of Mr. V.K. Sandhir, as his client has been ill advised to approach Civil Court in view of the bar with regard to the invocation of the jurisdiction of the trial Court.

Keeping in view the aforementioned facts, I deem it appropriate to dispose of the present appeal with direction to the plaintiff to file objection qua demand Ex.D5 and thereafter the authority under the Electricity Act shall consider the same and pass an appropriate order as specifically prescribed under Section 126 of the Act. There shall not be impediment with regard to the filing of the objection on the ground of delay and laches as the plaintiff has approached the trial Court way back in the year 2005 itself.

In case any objection is filed within a period of one month, competent Authority shall decide the same without taking objection qua delay, after affording opportunity to the appellant-plaintiff/consumer.

Present appeal in aforesaid terms is disposed of.

**18.05.2016**

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**(AMIT RAWAL)  
JUDGE**