

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

RSA No.9 of 2013 (O&M)
Date of decision : 14.01.2016

Jasbir Singh

...Appellant

Versus

Punjab State Electricity Board and another

...Respondents

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. H.S. Batth, Advocate for the appellant.

Mr. Hardeep Singh, Advocate for
Mr. G.S. Sidhu, Advocate for respondent No.1 and 2.

AMIT RAWAL, J. (Oral)

The appellant-plaintiff is in Regular Second Appeal against the impugned judgment and decree of Lower Appellate Court, whereby suit for declaration to the effect that demand of ₹56,610/- raised by defendants vide impugned memo No.2792 dated 17.11.2008 on account of alleged theft of energy in respect of electric connection bearing account No.SP-97/81 is totally wrong, illegal & arbitrary, has been dismissed.

The stand taken by the Electricity Board in the written statement was that the suit was not maintainable as per the amended

provisions of Electricity Act and jurisdiction of the Civil Court was barred. Vide letter bearing No.2792 dated 17.11.2008, notice under Section 126 of the Electricity Act for provisional assessment order was duly served upon the plaintiff. The meter was removed and packed in the presence of son of the plaintiff and was opened after the service of notice upon the plaintiff. Though Lower Appellate Court has dismissed the suit on merits but the fact remains that suit ex facie was not maintainable and provision of Electricity Act, 2003, Section 145 of the Electricity Act bars the jurisdiction of the Civil Court in entertaining the suit in case of provisional assessment order. The arrear referred to under Section 126 and 127 of the Electricity Act prescribes that on inspection of the premises if the Electricity Department finds that person is indulging into unauthorized electricity, the provisional assessment order shall be passed. Since as per the written statement, the provisional assessment order had been passed & communicated and remedy, if any, for the appellant-plaintiff was to file an appeal before the Competent authority of Law and not by way of suit.

In my view, the suit as per Section 145 of the Electricity Act, 2003 was not maintainable, much less, no substantial question of law arises for determination by this Court.

Accordingly, present Regular Second Appeal is dismissed.

14.01.2016

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**(AMIT RAWAL)
JUDGE**