

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

RSA No.6138 of 2016 (O&M)

Date of decision:09.12.2016

Jawahar Lal

Vs.

... Appellant

Sub Divisional Officer and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Nonish Kumar, Advocate, for
Mr. Wazir Singh, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-plaintiff is aggrieved of the judgments and decrees rendered by both the Courts below, whereby, the suit for declaration, prohibitory and mandatory injunction, has been dismissed.

Mr. Nonish Kumar, Advocate, for Mr. Wazir Singh, Advocate for the appellant-plaintiff submits that the procedure under Section 126 of the Electricity Act, 2003 was not followed and therefore, alleged action taken by the respondents was wrong. Despite availability of the alternative remedy, suit for injunction can be filed. The appellant-plaintiff filed a complaint under Section 12 of Consumer Protection Act. The District Consumer Forum, after considering the entire facts and circumstances on record, dismissed the complaint, vide order dated 14.10.2004.

The appellant filed an appeal before State Consumer Dispute Redressal Commission on 5.11.2004, which was again dismissed vide

detailed order dated 19.5.2011. A civil miscellaneous application moved by appellant for staying the operation of the order dated 19.05.2011 was also dismissed with the costs of ₹5,000/-. The aggrieved appellant-plaintiff challenged the order of State Consumer Forum before National Consumer Dispute Redressal, New Delhi by filing a revision petition which was also dismissed vide order dated 26.08.2011. The appellant-plaintiff filed a Special Leave Petition in Hon'ble Supreme Court of India against the order of National Consumer Dispute Redressal, New Delhi which was also dismissed, vide order dated 2.11.2011.

The Courts below have dismissed the suit on the ground that taking similar pleas in the suit as that has been taken in SLP amounts to constructive res-judicata. Hence the present suit is barred by law of res-judicata.

During the course of arguments, Mr. Nonish Kumar, submits that instead of arguing on merits of the case, he may be granted liberty to avail the remedy as per the provisions of the 2003 Act. I am in full agreement with the aforementioned request of Mr. Nonish Kumar and would deem it appropriate that in case any application challenging the aforementioned demand is filed within a period of one month from today, accompanied by an application seeking for condonation of delay by taking the benefit of Section 14 of the Limitation Act, the competent authority shall decide the application by taking into consideration the bona fides of the appellant.

In view of the aforementioned observations, the regular second appeal is disposed of with the liberty granted above as the Civil Court was not having jurisdiction to try and entertain the relief sought in the suit.

(AMIT RAWAL)
JUDGE

December 09, 2016
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No