

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

RSA No.4997 of 2015 (O&M)

Date of Decision.27.09.2016

Nachhattar Singh

.....Appellant

Vs.

Punjab State Electricity Board and another

.....Respondents

Present: Mr. Bir Davinder Singh, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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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AMIT RAWAL J. (ORAL)

C.M. No.12928-C of 2016

For the reasons stated in the application, order passed by this Court on 01.09.2016 is recalled and the second appeal is restored to its original number.

The application is allowed.

C.M. No.11913-C of 2015

For the reasons stated in the application, delay of 13 days in filing the appeal is condoned.

Application is allowed.

RSA No.4997 of 2015

The appellant-plaintiff is aggrieved of the concurrent finding of fact whereby the suit for declaration that notice issued by defendant No.2 raising demand of ₹38,673/- on account of running of 5 BHP motor allegedly by direct kundi on the basis of alleged checking report of AEE

Bargari dated 25.06.2009 to be illegal, null and void and against the instructions and rules of PSEB, has been dismissed.

Mr. Bir Davinder Singh, learned counsel for the appellant submits that the procedure under Section 126 of the Electricity Act, 2003 was not followed and therefore, alleged action taken by the respondent was wrong. Despite availability of the alternative remedy, suit for declaration can be filed.

During the course of arguments, Mr. Bir Davinder Singh, learned counsel for the appellant 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. Bir Davinder Singh 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 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

September 27, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No