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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 451/2012 & C.M. No.7032/2012

NORTH DELHI POWER LIMITED

..... Petitioner

Through Mr. Manish Srivastava, Adv.

versus

DEVINDER SINGH & ANR

..... Respondents

Through Mr. Hemant Verma, Adv.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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02.02.2016

The petitioner is aggrieved by the order dated 19.12.2012 wherein the application filed by him under Order 7 Rule 10 of the CPC seeking a prayer that the Special Electricity Court did not have the jurisdiction to try the case and the suit should proceed as a regular suit had been dismissed.

Record shows that the plaintiff had filed a suit for declaration and permanent injunction. The averments contained in the plaint are relevant. Attention has been drawn to the said averments. The case of the plaintiff is that he was a consumer of electricity at his residence which is on the second floor of WZ-4A, Ram Garh Colony, New Delhi consuming electricity from electricity meter bearing K. No. 3330616711. It was a domestic connection. On 24.03.2011, a notice had been received by the plaintiff under Regulation 49 (II) of DERC Supply Code and Performance cross-examination Standards Regulation, 2007 from the

petitioner wherein the petitioner had alleged that pursuant to a field inspection, a live connection from the electricity meter of the plaintiff was found and it was feeding the area of supply of a dis-connected connection. The petitioner was asked to stop the illegal and unauthorized extension of supply to the disconnected connection. It was this notice which has become the cause of action for the plaintiff to file the present suit. In the course of proceedings, an application under Order 7 Rule 10 of the CPC was filed by the petitioner stating that it is the Civil Courts alone which would have the jurisdiction to try the suit and not the Special Electricity Court. The impugned order had studied the submissions and counter submissions of the parties in the correct perspective. The judgment of this Court reported as 154 (2008) DLT 56 (DB) B.L. Kantroo Vs. BSES Rajdhani Power Ltd. which had been brought to the notice of the Trial Court as also before this Court clearly stipulates that in cases of theft, the jurisdiction of the Civil Court is not barred but the power to try an offence punishable under Sections 135 to 139 of the Electricity Act is exclusively on the Special Court which has been constituted under Section 153 of the said Act. The ratio of this judgment specifies that it is the Special Court alone which will have the jurisdiction to determine any dispute regarding the quantum of civil liability in theft cases whether or not the allegations of theft is disputes is still entitled to make such a challenge to the disputed bail before the Special Court. It was this ratio which had rightly weighed in the mind of the Trial Court to note that the averments in the plaint do disclose the case of theft as the contention of the plaintiff that this notice had specified that he was feeding the electricity from his connection to a

disconnected connection; this position had been disputed by the plaintiff which had led to him to file the present suit. His submission that his case was adequately covered under the provisions of Sections 135 to 139 of the said Act.

The impugned order in this background suffers from no infirmity. The jurisdiction of the Special Court was not barred. Petition is without any merit. Dismissed with costs quantified at Rs.10,000/-.

INDERMEET KAUR, J

FEBRUARY 02, 2016

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