

\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(C) 4977/2012 & CM APPLs. 10193/2012, 2541/2014

HITENDER YADAV

Through

..... Petitioner

Mr. Ashok Kumar Agarwal with
Mr. Ankit Gupta, Advocates

versus

NDPL AND ANR

Through

..... Respondents

Mr. Arav Kapoor, Advocate

CORAM:**HON'BLE MR. JUSTICE MANMOHAN**

%

ORDER**28.11.2016**

Present writ petition has been filed with the following prayers:-

(a) *To issue an appropriate order and direction to restore the electricity connection of IP meter bearing K. No. 34200605870-installed in the premises bearing no. WZ-324/262 (2-C), Village Shakurpur, Delhi.*

(b) *To issue an appropriate order and directions not to add the arrears if any to the domestic light connection bearing K. no. 34200605869 installed in the premises bearing no. WZ-324/262 (2-C), Village Shakurpur, Delhi.*

(c) *To issue an appropriate order and direction to return the excess amount taken by them or to adjust the same in future bill.*

(d) *To issue an appropriate order and direction to declare inspection dated 06.01.1997 illegal and*

manipulation and the bill Rs. 7,61,861.95 paisa based upon the inspection dated 06.01.1997 be quashed.

(e) To pass such other or further orders to which the petitioner is entitled to.”

A perusal of the file reveals that it is the case of the respondent that the petitioner has indulged in fraudulent and dishonest abstraction of energy. A Division Bench of this Court in ***B.L. Kantroo vs. BSES Rajdhani Power Ltd., 154 (2008) DLT 56 (DB)*** has held that the Special Court has exclusive jurisdiction to decide disputes pertaining to dishonest abstraction of energy. The relevant portion of the aforesaid judgment reads as under:-

“22. It is apparent that the cases of theft under Section 135(1) involve mens rea. The jurisdiction of civil Court is not barred but the power to try offences punishable under Sections 135 to 139 is conferred exclusively on the Special Court constituted under Section 153 of the Act and the provisions of Sub-section (5) of Section 154 specifically invest Special Court with the jurisdiction to determine any dispute regarding the quantum of civil liability in theft cases whether or not the allegation of theft is disputed, is still entitled to make such a challenge to the disputed bill before the Special Court, even in cases where no criminal complaint is filed against the consumer and the amount of civil liability so determined shall be recovered as if it were a decree of a civil Court and it can act as civil Court as well as criminal Court while conducting the cases before it.

xxx

xxx

xxx

30. Although there is no specific provision in Section 145 of the Act for exclusion of jurisdiction of Civil Court to entertain any proceeding in respect of any matter which the Special Court is empowered by or under the Act to determine, we are of the view that any dispute about civil liability in theft cases is impliedly excluded from the jurisdiction of civil Court in view of the provisions of Sections 153 and 154 of the

Act wherein special court has got the jurisdiction to determine any dispute regarding the quantum of civil liability specifically in theft cases and the said Court can act as civil Court as well as criminal Court while conducting the cases before it.”

Accordingly, this Court is of the view that the petitioner has an alternative effective remedy to challenge the impugned bill.

Consequently, the present writ petition and applications are disposed of with liberty to the petitioner to avail the remedy before the Special Court, if he so desires within a period of six weeks. In the interest of justice, it is directed that the time spent in prosecuting the present petition would not be taken into account while calculating the period of limitation for the new proceeding to be filed by the petitioner before the Special Court.

Needless to say, all rights and contentions of both the parties are left open and the Special Court shall decide the matter finally without being influenced by any observation made by this Court.

MANMOHAN, J

NOVEMBER 28, 2016

rn