

CWP-9428-2014

Date of Decision : 01.05.2017

Amar Singh

.....Petitioner

versus

Dakshin Haryana Bijli Vitran Nigam and others

....Respondents

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. B.S. Mittal, Advocate
for the petitioner.Mr. P.S. Poonia, Advocate
for the respondents.**M.M.S. BEDI, JUDGE (ORAL)**

On the allegations of theft, after the inspection of premises of the petitioner on 24.11.2009, demand of Rs.4,12,968/- was raised. The petitioner challenged the said penalty in the civil Courts which was ultimately finalized vide order Annexure P-3 in civil appeal by the Additional District Judge holding that the civil Courts had got no jurisdiction to entertain such claim. The petitioner moved an application for restoration of electric connection to his Aatta Chakki on the ground that he stood acquitted by the Special Court vide order Annexure P-4 dated 17.04.2013.

The short question which is required to be determined in this writ petition is whether after the acquittal of the petitioner in the criminal case, he would be liable to pay the penalty.

Learned counsel for the respondents has vehemently opposed the petition contending that once the petitioner has opted to choose the forum of civil Court and failed to get any relief, he will not

be entitled to get benefit of order of acquittal.

I have heard learned counsel for the petitioner and counsel for the respondents. Since the petitioner was proceeded against on the allegation of theft of electricity and he was acquitted after the trial, the very basis of the proceedings have been demolished with the acquittal. The question of recovering any amount on account of alleged theft is not sustainable in law.

In view of above, the order dated 18.04.2013 Annexure P-5 is hereby set aside. The writ petition is allowed. In view of the consequence of setting aside of order Annexure P-5, the petitioner would be entitled to the refund Rs.1,72,968/- deposited by him or to get the same adjusted in the future bills.

A direction is issued that the amount of Rs.1,72,968/- will be returned to be petitioner within a period of 15 days or in the alternative the sum will be adjustable in the next bills. In case of violation of the directions, it will be open to the petitioner to approach this Court again. Petitioner will also be entitled to costs of litigation of Rs.10,000/- to be paid by the respondents.

(M.M.S. BEDI)
JUDGE

01.05.2017
Neha

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No