

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

219

RFA No.762 of 2016(O & M)

Date of Decision:10.07.2017

Vinod Kumar

....appellant

Versus

Dakshin Haryana Bijli Vitran Nigam and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

Present: Mr.Sanchit Punia, Advocate
for the appellant

Mr.S.K.Mahajan, Advocate
for the respondents

ARUN PALLI, J. (ORAL):

Plaintiff is in appeal before this Court. Vide impugned judgment 19.01.2016, rendered by the Additional District Judge, Hisar, suit filed by the appellant was dismissed being not maintainable. A bare analysis of the impugned judgment reveals that the reliance was placed upon a decision of this Court rendered in RSA No.1002 of 2014 (**Hari Chand vs. Dakshin Haryana Bijli Vitran Nigam Ltd. and another**), dated 20.02.2014, vide which, it was concluded that as regards the disputes arising under Section 145 of the Electricity Act, 2003, jurisdiction of the Civil Court was barred.

Learned counsel for the appellant submits that there is absolutely no dispute qua the proposition of law laid down by this Court in the case of Hari Chand (supra), but since the present suit was filed before the special Court under the Act and not before the Civil Court, the learned

Additional District Judge, Hisar, erred in placing reliance upon the decision

of this Court in Hari Chand(supra). He submits that the matter in issue is covered by another decision of this Court dated 14.10.2015, rendered in CWP No.4016 of 2014 (**Satyabir Goyal vs. Dakshin Haryana Bijli Vitran Nigam and others**). Wherein, it was settled that as regards the disputes concerning theft of electricity, under Section 135 of the Act, the Special Court under Section 154 of the Act, has the jurisdiction to adjudicate such suits.

The factual position as set out above, is not disputed by learned counsel for the respondents. In fact, he fairly submits that the Additional District Judge, Hisar, being a special Court had the jurisdiction to decide the suit preferred by the appellant.

In conspectus of the above, the impugned judgment dated 19.01.2016 is unsustainable and the matter requires to be remitted for re-decision. Consequently, the appeal is allowed. The judgment dated 19.01.2016 is set aside. The matter is remitted to the Additional District Judge, Hisar, for re-decision in accordance with law. Needless to assert that this order shall not constitute any expression of opinion on the merits of the case of either party. Parties through their respective counsel shall appear before the lower court on 01.08.2017.

July 10, 2017

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(ARUN PALLI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No