

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

**RSA No. 1781 of 2017 (O&M)
Date of decision: 30.3.2017**

Hardesh Goyal and another

...Appellants

Versus

Uttar Haryana Bijli Vitran Nigam Limited and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. R.S. Budhwar, Advocate
for the appellants.

RAMESHWAR SINGH MALIK, J. (Oral)

Learned counsel for the appellants, at the very outset, fairly states that since the appellants were having remedy of statutory appeal under Section 127 of the Electricity Act ('the Act' for short), which was not availed by them, because of wrong legal advice tendered and also because of bonafide wrong impression, they filed the suit for declaration for which jurisdiction of the civil court was barred under Section 145 of the Act, he may be permitted to withdraw the present appeal with liberty to the appellants to file their statutory appeal alongwith an application for condonation of delay. He also submits that appellate authority may be directed to decide the appeal on merits, because appellants had been pursuing the litigation under bonafide wrong impression.

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In view of the abovesaid fair statement made by learned counsel for the appellants, permission is granted to the appellants to withdraw the present appeal with liberty to file their statutory appeal. It is also directed that if the statutory appeal is filed by the appellants within a period of one month from today, appellate authority shall decide the appeal on merits, because the appellants had been pursuing the litigation before the learned civil court under bonafide wrong impression and on the basis of incorrect legal advice tendered.

This direction is being issued only keeping in view the peculiar facts and circumstances of case and also to ensure that none of the parties may face undue hardship and finally, to do complete and substantial justice between the parties.

With the abovesaid observations made and directions issued, present appeal stands disposed of.

30.3.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No