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**IN THE HIGH COURT OF DELHI AT NEW DELHI**

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W.P.(C) 549/2017 & CM Appls. 2481-2482/2017

KRISHNA SAINI

..... Petitioner

Through: Mr. Sandeep Gupta, Adv.

versus

TATA POWER DELHI DISTRIBUTION LIMITED..... Respondent

Through: Mr. Manish Srivastava, Adv. with Mr.  
Aditya Gupta, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**ORDER**

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**20.02.2017**

The present writ petition has been filed challenging the inspection report dated 22<sup>nd</sup> November, 2016 wherein theft of electricity was found in the property bearing no. E-17, Ground Floor, Bungalow Road, Kamla Nagar, Delhi. Petitioner further challenges the bill dated 29<sup>th</sup> November, 2016 for Rs. 4,09,756/- passed in pursuance to the inspection report.

It is the case of the petitioner that since March 2015, she has been staying with her niece and her portion of aforesaid property was lying vacant. In her absence, the electricity connection was disconnected and the meter was removed on the ground that various bills were unpaid.

It has further been averred that on payment of outstanding bill of Rs. 1,80,620/-, the electricity was restored and the new meter was

installed on 09<sup>th</sup> September, 2016.

Learned counsel for the petitioner states that on 22<sup>nd</sup> November, 2016, the officials of respondent-TPDDL inspected the property in question and erroneously concluded that the petitioner has committed theft of electricity from the electricity pole outside her house.

Learned counsel for the respondent-TPDDL states that during inspection, direct theft of electricity was found. In this connection, he has drawn this Court's attention to the inspection report at page 34 of the paper book. The relevant portion of the said report reads as under:-

*“Observations or irregularities: At the time of inspection total load was found supplying on direct theft – supply..... found.....Direct theft of electricity found being connected at site by directly tapping from TPDDL TYCD BOX using illegal wire, as mentioned in seizure memo....”*

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.*

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*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.”*

Consequently, present writ petition and applications are disposed of with liberty to the petitioner to avail the remedy before the Special Court, if she so desires within a period of four weeks.

In the meantime, purely as an interim measure, it is directed that the petitioner's electricity connection shall be restored subject to the petitioner depositing Rs.2 lacs with the respondent along with the current dues.

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

Order dasti.

**MANMOHAN, J**

**FEBRUARY 20, 2017/NG**