

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 385 OF 2016
WITH
CIVIL APPLICATION NO. 18 OF 2018

Shri. Pralhad Dhagaji Patil	...Appellant
<i>Versus</i>	
The Maharashtra State Electricity Distribution Co. Ltd	...Respondent

Mr. Pramod N. Joshi, for the Appellant.

CORAM: N. M. Jamdar, J.
DATED: 10 January, 2018

Oral Order:-

1. Heard the learned Counsel for the Appellant.
2. The Appellant has challenged the concurrent judgments and orders passed by the Civil Judge, Senior Division, Malegaon, dated 12 January, 2010 and the learned District Judge, Malegaon dated 17 August, 2015. The Suit and the Appeal filed by the Appellant are dismissed.
3. The Appellant filed a Regular Civil Suit No.82 of 2004, in the Court of Civil Judge, Senior Division, Malegaon, for declaration and permanent injunction in respect of the electricity connection. It is the case of the Appellant that the

electricity connection was taken by him for the purpose of a petrol pump. The Respondent authority conducted an inspection and bill was raised on the Appellant to the tune of Rs.2,20,680/-. Appellant by filing the Suit questioned the manner in which the bill was generated and the other aspects relating to the bill. The Respondent Authority by filing a written statement justified their action and contended that the Suit was not maintainable. The learned Civil Judge *inter alia* held that in view of Section 145 of the Electricity Act, 2003 ('the Act', for short) the jurisdiction of the Civil court was barred. The learned District Judge confirmed this finding by dismissing the Civil Appeal No.94 of 2012.

4. The learned Counsel for the Appellant sought to contend that the prayers made in the Suit cannot be agitated before the Authority under the Act and unless there is remedy under the Act available to the Appellant the bar of jurisdiction of Civil Court under Section 145 will not arise.

5. I have gone through the plaint filed by the Appellant – Plaintiff. The Appellant has questioned the validity of the bill raised. There have been substantial amendments in the Electricity Act of 2003 and Section 126 has been also amended. Section 127 also provides Appeal to the Appellate Authority. Considering the averments made in the plaint cannot be said

that the view taken by both the Court that the Suit was not maintainable, is incorrect.

6. The learned Counsel contended that the Additional Sessions Judge, Malegaon in Sessions Case No.392 of 2006 has delivered a judgment on 30 November, 2011, wherein it has been held that the prosecution has failed to prove that the Appellant has tampered or interfered with the meter. It is submitted that in view of this position the Appellant need not be driven to the Authority under the Act. This judgment is sought to be brought on record as an additional evidence. Since a judgment has been rendered by a competent Court, the Appellant can always rely upon the same before the Authority. It is also contended by the learned Counsel for the Appellant that the Appellant has paid the amount so demanded by the Authorities. This aspect, along with the pendency of these proceedings can also be urged by the Appellant to impress on the Authorities that the delay, if any, in filing proceedings before the Authority should be condoned. In these circumstances no question of law arises. The Second Appeal is dismissed.

7. In view of dismissal of the Appeal, the Civil Application does not survive and is disposed of accordingly.

[N. M. JAMDAR, J.]