

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

CWP No.13227 of 2018
Date of Decision:19.07.2018

Rajan Chopra

..... Petitioner

Vs.

Punjab State Electricity Board and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Sameer Sachdeva, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J.

The petitioner has two temporary connections bearing Account Nos.NRS KK/18/1615, TY 1027 and TY 1093, installed in Silver Residency Apartments, Nakodar Road, Jalandhar. The said electricity connections were checked by the Senior Executive Engineer (Enforcement) II, Jalandhar, who had found that the petitioner has been indulging in unauthroised use of electricity. The petitioner was served with a legal notice dated 8.8.2008 as regards the provisional assessment of ₹9,55,615/- and was given liberty to file objections. The objections were filed on 19.8.2008. Thereafter the respondents passed the final assessment order on 20.11.2008 asking the petitioner to pay the amount of ₹9,55,615/-. Although the order, passed under Section 126 of the Electricity Act, 2003 [for short 'the Act'] cannot be challenged before the Civil Court but the petitioner chose to file a civil suit which was ultimately dismissed on 24.3.2014 by the Civil Judge (Jr. Division), Jalandhar on the ground of maintainability and jurisdiction and

the appeal filed against it was dismissed by the Additional District Judge, Jalandhar on 30.9.2015. Thereafter, the petitioner filed the appeal under Section 145 of the Act to challenge the final order of assessment. The said appeal was again not maintainable because the appeal should have been filed only under Section 127 of the Act after complying with the provisions of Section 127(2) of the Act which stipulates that an appeal could be filed only after depositing half of the assessed amount but still the learned Appellate Authority considered the appeal, having been filed under Section 127 of the Act and decided it against the petitioner vide impugned order dated 3.1.2018. The petitioner has thus challenged the order of the final assessment and the order passed in appeal in this petition in which it is alleged that the premises were not checked in his presence and that the provisional assessment was not made within the prescribed time.

After hearing learned counsel for the petitioner and perusal of record it appears that the petitioner has tried its best to delay the proceedings in one way or the other as initially, after the passing of the final assessment order, after due consideration of the objections filed by the petitioner, a civil suit was filed for declaration and injunction which was ultimately dismissed on 24.3.2014 and then an appeal was filed which was dismissed by the Appellate Court on 30.9.2015. In this process, starting from the civil suit, having been filed on 21.11.2008, the petitioner had consumed seven years before the Civil Court, knowing fully well that the civil suit was clearly barred in terms of Section 145 of the Act. Thereafter, in order to avoid the deposit of half of the assessed amount, which is the *sine qua non* for maintainability of appeal under Section 127 of the Act, the petitioner

deliberately filed the appeal under Section 145 of the Act knowing fully well that the appeal under the Act is maintainable only under Section 127 of the Act which is itself mentioned in Section 145 of the Act. The said appeal although should not have been converted by the appellate authority as an appeal having been filed under Section 127 of the Act but the appellate authority, after converting the same, found no merit in it and in this regard, a categorical finding has been recorded which read as under: -

“Moreover, counsel for appellant failed to produce any evidence in their support despite several opportunities and adjournments granted to him his oral and written requests on 10.01.2017, 17.02.2017, 27.03.2017, 05.04.2017, 19.05.2017, 30.05.2017, 04.08.2017, 18.08.2017, 23.08.2017, 28.08.2017, 18.09.2017, 09.10.2017, 23.10.2017, 31.10.2017, 17.11.2017, 24.11.2017, 30.11.2017, 07.12.2017, 19.12.2017 and 22.12.2017.”

As a matter of fact, no meaningful argument has been raised by counsel for the petitioner for the purpose of assailing the impugned order. Hence, the present petition is hereby dismissed.

19.07.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No