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

% ***Date of Order : February 21, 2018***

+ **W.P.(C) 7215/2017**

MAHENDER KUMAR Petitioner

Through: Mr.Vishwendra Verma, Advocate

versus

BSES YAMUNA POWER LTD. & ORS Respondents

Through: Mr.Sandeep Prabhakar, Advocate and
Mr.Vikas Mehta, Advocate for R-1

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

(ORAL)

1. In the first round of litigation, petitioner had filed a civil suit seeking the same very declaration as sought in this petition. The said suit was decreed and the first appeal against it was dismissed. However, in the second appeal, respondent had succeeded as petitioner has been relegated to raise an industrial dispute before the concerned Labour Court. It is matter of record that petitioner had sought review of order of 24th May, 2016 in RSA No.178/2013 *BSES Yamuna Power Ltd. & Ors. Vs. Mahender Kumar* which has been dismissed vide order of 5th August, 2016. Petitioner had then preferred '*Special Leave Petition*' which was withdrawn by him. Meaning thereby, the order passed in the Regular Second Appeal of relegating petitioner to raise an industrial dispute has attained finality. In this writ petition, petitioner seeks the same relief as sought in the civil proceedings

which has already attained finality in the first round of litigation.

2. In the facts and circumstances of this case, this Court deems it inappropriate to exercise its jurisdiction under Article 226 of the Constitution of India to enter into the factual arena to consider petitioner's claim in this petition as in the first round of litigation petitioner has been already relegated to avail of the remedy of raising an industrial dispute.

3. In view of the aforesaid, this petition is dismissed.

(SUNIL GAUR)
JUDGE

FEBRUARY 21, 2018
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