

RSA Nos.5898 & 5899 of 2017 (O&M)

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

Date of decision : 12.03.2019

1. RSA-5898-2017 (O&M)

Cantonment Board, Ferozepur Cantt.

... Appellant

Versus

Punjab State Power Corporation Limited and another

... Respondents

2. RSA-5899-2017 (O&M)

Cantonment Board, Ferozepur Cantt.

... Appellant

Versus

Punjab State Power Corporation Limited and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. K.B. Raheja, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

This order of mine shall dispose of two regular second appeals bearing **RSA No.5898 of 2017** titled as **“Cantonment Board, Ferozepur Cantt. V/s Punjab State Power Corporation Limited and another”** arising out of the Civil Suit No.822 of 2014 and **RSA No.5899 of 2017** titled as **“Cantonment Board, Ferozepur Cantt. V/s Punjab State Power Corporation Limited and another”** arising out of the Civil Suit No.816 of 2014.

RSA Nos.5898 & 5899 of 2017 (O&M)

The present appeals are directed at the instance of the appellant-plaintiff against the concurrent findings of fact and law, whereby the suit claiming declaration challenging the notice bearing No.1449 and 1454 dated 16.02.2006, imposing the penalty of ₹2,46,423/- and ₹70,882/- respectively, has been dismissed on the ground that as per the provisions of Section 145 of the Electricity Act, 2003 (in short 'the 2003 Act'), the Civil Court did not have jurisdiction. For the sake of brevity, the provisions of Section 145 of the 2003 Act read as under:-

***"145. Civil court not to have jurisdiction.-** No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an assessing officer referred to in section 126 or an appellate authority referred to in section 127 or the adjudicating officer appointed under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act."*

During the course of arguments, Mr. K.B. Raheja, learned counsel for the appellant submits that instead of arguing on merits of the case, he may be granted liberty to avail the remedy as per the provisions of the 2003 Act.

I am in full agreement with the aforementioned request of Mr. Raheja, and would deem it appropriate that in case any application challenging the aforementioned demand is filed within a period of one month from today, accompanied by an application seeking for condonation of delay by taking the benefit of Section 14 of the Limitation Act, the competent authority shall decide the application by taking into consideration the bona fides of the appellant.

In view of the aforementioned observations, the second appeals are disposed of with the liberty granted above as the Civil Court was not having jurisdiction to try and entertain the relief sought in the suit.

12.03.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓
Whether speaking/reasoned Yes/ No
✓
Whether Reportable Yes/ No