

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

**RSA No.401 of 2017 (O&M)
Date of decision:01.04.2019**

Rajinder

... Appellant

Vs.

Uttar Haryana Bijli Vitran Nigam Limited and another

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. S.K.Verma, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.870-C of 2017

For the reasons stated in the application which is duly supported by an affidavit, delay of 19 days in filing the appeal is condoned.

C.M. stands allowed.

RSA No.401 of 2017 (O&M)

The present appeal is directed at the instance of the appellant-plaintiff against the concurrent findings of fact and law, whereby the suit claiming declaration challenging the memo bearing No.12/CA dated 04.01.2011, imposing the penalty of ₹1,82,794/-, 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. S.K Verma, 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.

It is un-authorized use of electricity under Section 126 of 2003 Act. The final assessment order, according to the appellant-plaintiff, was passed on 04.01.2011. The suit has been dismissed on the ground of maintainability.

Concededly, the appellant-plaintiff was charged with un-authorized use of electricity and no FIR has been registered as per the provisions of Section 135 of 2003 Act.

I am in full agreement with the aforementioned request of Mr. Arora 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 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 regular second appeal is 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.

April 01, 2019

savita

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No