

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

RSA-5697-2019 (O&M)
Decided on : 16.12.2019

Gurdev Singh

..... Appellant

Versus

Dakshin Haryana Bijli Vitran Nigam Ltd. & ors.

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. J.S.Thind, Advocate
for the appellant.

Manjari Nehru Kaul, J.

Instant appeal has been preferred against the concurrent findings recorded by the courts below whereby the suit filed by the appellant for declaration that Memo No.1541 dated 25.10.2012 pertaining to order of assessment under Section 135 of the Electricity Act (for short 'the Act') and Memo No.1541 for compounding of offence of theft under Section 135/152 of the Electricity Act on the basis of checking report was dismissed.

The appellant, who is a permanent resident of village Damdama, Tehsil Rania, District Sirsa obtained an electricity connection bearing No.SJ29/1248. It was pleaded by the appellant in the civil suit that the electricity meter was installed outside his premises on an electric pole in the public street. The respondent-Nigam qua the assessment by licensee for offence of theft under Section 135 of the Act for payment of Rs.12,000/- issued Memo No.1541 dated 25.10.2012. Vide another memo No.1541

dated 25.10.2012, the appellant was directed to pay Rs.37,129/- for compounding the offence of theft of electricity under Sections 135 and 152 of the Act. The appellant was threatened that in case of non-payment of the aforementioned charges, his electricity connection would be disconnected and a criminal case would be registered against him. The respondent-Nigam imposed a penalty @ Rs.4,000/- per KW which was against the provisions of sales circular issued by the respondent-Nigam from time to time. It was alleged that the respondent-Nigam's officials never visited the premises of the appellant and the electricity meter was installed outside the premises in the street at their own responsibility.

Upon notice, the respondent-Nigam submitted in their written statement that the electricity meter was checked and removed in the presence of the appellant. It was further submitted that the appellant himself refused to sign the checking report. Not only this, the electricity consumption of the load was enhanced from 1 KW to 3 KW at request of the appellant himself for which a loss @ Rs.4,000/- per KW was rightly assessed vide Memo No.B-1541 dated 25.10.2012. It was further submitted that upon testing of the electricity meter, two seals were found tampered with, for which a case of electricity theft was forwarded against the appellant. Despite enough opportunities having been afforded to the appellant to represent his case, he preferred not to appear and absented himself.

I have heard learned counsel for the appellant as well as gone through the impugned judgments and decree passed by the Courts below.

It would be apposite to reproduce Section 145 of the Act, which

is 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.

A bare reading reveals that there is a specific bar under which the jurisdiction of Civil Court to entertain the suits/proceedings in respect of matters falling under Section 126 of the Act is expressly barred. Even qua the final assessment order, the Civil Court has no jurisdiction to deal with the declaration suit pertaining to final assessment done under the provisions of the Electricity Act, 2003.

Hence, in my opinion, there is no illegality or perversity in the findings recorded by the Courts below.

Consequently, the present appeal stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

16.12.2019
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No