

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

Sr. No.124

RSA No.41 of 2021 (O&M)

Date of Decision : December 01, 2021

Sub Divisonal Officer (OP) UHBVNL

...Appellant

Versus

Bimla Devi

...Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Rahul Dev Singh, Advocate, for the appellant.

SUDHIR MITTAL, J. (ORAL)

The respondent-plaintiff filed a suit for declaration that notice dated 16.09.2016 issued under Section 135 of Electricity Act, 2003 (hereinafter referred to as the Act) for recovery of Rs.1,27,772/- and notice dated 16.09.2016 under Section 152 of the said Act were illegal, null and void. Consequential relief of permanent injunction was sought restraining the defendant-appellant from lodging an FIR and from recovering the amount mentioned in the notice. The suit was partly decreed by the trial Court. It was held that notice dated 16.09.2016 (Ex. D-3) is illegal and void. Consequent relief of injunction restraining the defendant from recovering the notice amount was also granted. Further, directions were also issued to the defendant to refund the amount deposited by the plaintiff. Appeal of the defendant has been dismissed.

Learned counsel for the appellant has relied upon Section 145 of the Act to argue that the Civil Court had no jurisdiction in the matter. The said Section is reproduced below for ready reference:

“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.”

Section 145 of the Act provides that civil court shall not have jurisdiction in respect of matters within the domain of the assessing officer or an appellate authority or the adjudicating officer appointed under the Act and no injunction shall be granted in respect of action taken by such authorities. However, in case, an action is taken by the aforementioned authorities in contravention of the statutory provision regarding grant of hearing before passing a final order it would result in violation of natural justice and the civil court would then have jurisdiction.

In this case, no opportunity to object to the order of provisional assessment was granted to the respondent-plaintiff and thus, the trial Court has held that there was a violation of Section 126 of the Act as well as principles of natural justice. The said finding has been upheld by the

Appellate Court. Learned counsel for the appellant could not point out any error in the said findings on the basis of evidence on record and thus, the appeal has no merit.

It is accordingly dismissed.

December 01, 2021
Ankur

(SUDHIR MITTAL)
JUDGE

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