

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

Sr. No.124

RSA-488-2021 (O&M)

Date of decision : 16.08.2021

Dakshin Haryana Bijli Vitran Nigam Limited and others Petitioners

VERSUS

Dalip Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. S.K. Mahajan, Advocate, for the petitioners.

SUDHIR MITTAL, J. (Oral)

The plaintiff-respondent filed a suit for declaration that checking report dated 06.08.2016, joint checking report and demand memos dated 16.03.2017 are illegal and unlawful with a consequential relief of permanent and mandatory injunction directing the defendants to restore the electricity connection and also to refund amount recovered alongwith interest at the rate of 24% per annum. The suit has been decreed by the trial Court and appeal of the defendant-appellant has been dismissed.

It has been submitted that jurisdiction of the civil Court is barred and thus, the judgments and decrees of the Courts below are illegal and nonest. Moreover, the matter regarding jurisdiction of civil Courts is pending adjudication in RSA-6223-2017, which has been admitted and has been ordered to be heard alongwith RSA-3742-2017 vide order dated 22.12.2017. Thus, this case be also adjourned and be directed to be heard alongwith said case.

Section 145 of the Electricity Act, 2003 is reproduced below:-

‘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.’

The aforementioned provision bars a civil Court from entertaining any suit or proceeding in respect of a matter which an assessing officer referred to in Section 126 of the Act or an appellate authority referred to in Section 127 of the Act or an adjudicating officer appointed under the Act is empowered to determine. A perusal of the judgment of the Court below shows that the subject matter of the suit is not one that can be decided either by the assessing officer or an appellate authority or an adjudicating officer. The grievance of the plaintiff-respondent is that the checking was done in violation of the principles of natural justice. The meter was removed and sent for testing, but the plaintiff-respondent was not made to witness the test. He was asked to put signature on the testing report without informing him about the result of the test and thus, the demand raised upon aforesaid checking and testing report is illegal. For deciding the matter in issue, the civil Court has jurisdiction and it is incorrect to argue otherwise.

Reliance upon RSA-6223-2017 is also misplaced. A perusal of order dated 22.12.2017 passed in RSA-6223-2017, copy of which reproduced in the index of this case shows that the matter being examined pertains to Sections 153 and 154 of the Electricity Act, 2003. That is not the question in this case.

No argument has been raised on the merits of this case.

Thus, the appeal has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

16.08.2021

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No