

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

CR-2957-2019 (O&M)

Date of decision: 28.10.2022

Vinod Kumar

....Petitioner

Versus

Dakshin Haryana Bijli Vitran Nigam and others ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Divya Sarup, Advocate for the petitioner
 Ms.Nikita Goel, Advocate for respondents
 Mr.J.S.Pannu, AAG, Haryana

ANIL KSHETARPAL, J (Oral)

On account of elevation of the previous counsel to the Bench, Ms. Nikita Goel, Advocate, has entered appearance for the respondents.

The petitioner filed a suit before the Special Court constituted under the Electricity Act, 2003, for grant of decree of declaration to the effect that the alleged checking reports and the consequent assessment order are illegal. The court returned his plaint after observing that the Special Court being a court of Sessions has no jurisdiction to entertain such suit. However, in first appeal the suit was held to be maintainable. Pursuant to the remand, the court again returned the plaint for presentation before the civil court of competent jurisdiction. The plaintiff's application for restoration of the suit has been rejected on the ground that the order of return on the plaint has already been passed. The operative part of the order reads as under:-

*“Therefore, when order of return of
plaint has already been passed by this court then no
further proceedings are required to be carried out by
this court because the applicant can receive back his
plaint and other documents in terms of order dated
1.11.17 for the purpose of presenting it to the court of*

Civil Judge (Senior Division), Hisar and from there he can with the indulgence of the court or the court to which his case is assigned can get the summons issued upon the opposite party. Therefore, I find no substance in the application for restoration of the application for return of plaint especially when order has already been passed in that regard on 1.11.2017 by this court.

In view of above, present application is hereby dismissed. File be consigned to records.”

Against the aforesaid order, the plaintiff has filed this revision petition. Learned counsel representing the petitioner (plaintiff) admits that in view of the judgment passed by the Supreme Court in **North Delhi Power Limited Vs. Devinder Singh and another, Civil Appeal No.20842 of 2017, decided on 04.12.2017**, the Special Court constituted under the Electricity Act, 2003 is the court of Sessions for adjudicating the criminal disputes. No doubt, while deciding the criminal case, the Special Court has been given power to decide incidental question of penalty or liability of the consumer. However, the Special Court is not a civil court and therefore, it has no power to entertain any such suit.

Keeping in view the aforesaid facts, the court has already passed an order for return of the plaint. Hence, no further order is required to be passed.

Disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

28.10.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE