

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

CR-3309-2017

Date of Decision:-**18.07.2023**

RAM MURTI

... Petitioner

Versus

UTTAR HARYANA BIJLI VITRAN NIGAM & ANR

... Respondents

-. -

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-. -

Present:- Mr. Sanjay Jain, Advocate
for the petitioner.

Mr. Baldev Raj Mahajan, Senior Advocate with
Mr. Prateek Mahajan, Advocate,
Ms. Saloni Sharma, Advocate and
Mr. Varun Gupta, Advocate
for UHBVNL-respondents.

-. -

KARAMJIT SINGH, J. (Oral)

1. This civil revision petition has been filed by petitioner-Ram Murti against the order dated 10.3.2017 passed by the Special Court, Ambala (Constituted under Section 153 of the Electricity Act, 2003), whereby petition filed by the petitioner under Section 154-B of Electricity Act, 2003 (for short 'the Act') has been dismissed been not maintainable.
2. The brief facts of the case are that the petitioner received assessment order bearing No.A33/2014/2 dated 3.1.2014, whereby the petitioner

was asked to deposit amount of ₹1,23,698/- on the basis of inspection, as per which the electricity connection of the petitioner was checked by the officials of respondent No.1 and thereafter the petitioner deposited the aforesaid amount along with compounding charges and the offence with regard to theft/misuse of electricity was compounded.

3. The petitioner being aggrieved by order dated 10.3.2017 has filed the present revision petition, which is being resisted by the learned Senior Counsel for respondents.
4. The counsel for the petitioner submits that payment of assessed amount and compounding charges i.e. ₹1,39,698/- in total was deposited with the respondents only under protest. It is further submitted that Special Court, Ambala is having jurisdiction to deal with the matter as per the provisions of Section 154(5) of the Act, which authorizes the Special Court to determine the civil liability against a consumer in terms of money for theft of energy. So prayer is made that the present petition be allowed and the special Court Ambala be given direction to proceed further in the matter in accordance with law.
5. On the other hand, the learned Senior Counsel for the respondents while supporting the impugned order submits that the petitioner made payment of assessed amount along with compounding charges and accordingly, the offence was compounded. He further submits that as the offence with regard to theft of energy was compounded, it cannot be said that total payment of ₹1,39,698/- was made by the petitioner

under protest. The learned Senior Counsel for the respondents further submits that the Special Court is having no jurisdiction to adjudicate civil liability under Section 154 of the Act. In support of his contention the learned Senior Counsel for the respondents has placed reliance upon the decision of the Hon'ble Supreme Court in Civil **Appeal No.20842 of 2017** titled as **North Delhi Power Limited (now known as Tata Power Delhi Distribution Ltd.) vs. Devinder Singh and Another** decided on **4.12.2017**.

6. I have considered the submissions made by the counsel for the parties.
7. Admittedly in the present case offence was compounded by the concerned authorities on payment of assessed amount and compounding charges i.e. in total ₹1,39,698/- by the petitioner with the department. So it is evident that no criminal proceedings were pending against the petitioner under Sections 135 to 140 and Section 150 of the Act, when he filed petition under Section 154-B of the Act to challenge checking report dated 5.12.2013, assessment order dated 3.1.2014 and notice for compounding offence of theft of electricity dated 1.3.2014 and further sought refund of ₹1,39,698/-.
8. In **Devinder Singh's** case (supra), the Hon'ble Supreme Court while allowing the appeal filed by **North Delhi Power Ltd.** clearly held that that special Court is having no jurisdiction to entertain a civil suit in absence of pendency of criminal proceedings of offences under Sections 135 to 140 and Section 150 of the Act and while passing the said order the Hon'ble Apex Court observed as follows:-

“The procedure and power of the Special Court is laid down under [Section 154](#) of the Act, including the power to levy a penalty which is referred as “civil liability” under [Section 154\(5\)](#) and [154\(6\)](#) of the Act. [Section 155](#) states that the Special Court is to have the powers of a Court of Sessions, and [Section 157](#) of the Act vests the Special Court with a power of Review. Under [Section 156](#) of the Act, appeals and revisions that are available against the Court of Sessions and that are provided under the Code of Criminal Procedure, 1973 can also be availed of.

It is clear from a perusal of the aforesaid sections that the Special Electricity Court acts as a Court of Sessions and has been set up to try offences that are committed under the Act. By no stretch of imagination can it be stated that a civil suit would be within the jurisdiction of such Court. We are, therefore, of the view that the impugned judgment deserves to be set aside.”

9. Keeping in view the aforesaid discussion and the law laid down in **Devinder Singh’s** case (supra), it is evident that Special Court constituted under Section 153 of the Act do not have jurisdiction to entertain, try and decide civil liability in absence of pendency of trial of offence referred to in Sections 135 to 140 and Section 150 of the Act.
10. Consequently, the present revision petition is hereby dismissed being devoid of merits.

18.07.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No