

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

CR-4335-2016 (O&M)

Reserved on: 19.01.2023

Date of pronouncement: 25.01.2023

Bimla Sahu

...Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd., Rohtak

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Devinder Singh, Advocate for the petitioner.

Mr. B.R. Mahajan, Sr. Advocate with
Mr. Arvind Seth, Advocate for the respondent.

H.S. MADAAN, J.

Under challenge in this revision petition is order dated 29.04.2016, passed by Addl. District Judge, Rohtak exercising the powers of Special Court under Electricity Act, 2003. This revision petition has been filed by plaintiff Bimla Sahu, who is aggrieved by the impugned order/judgment, vide which her petition had been dismissed.

2. Briefly stated facts of the case are that petitioner Bimla Sahu had brought a petition against respondent- Uttar Haryana Bijli Vitran Nigam Ltd., Rohtak, seeking setting aside of the order passed by Assessing Officer and restraining the respondent from recovery of disputed amount on the averments that her house where electricity meter bearing No.F611-0554 is installed, was inspected by checking

staff of the respondent and it was alleged that the petitioner was committing theft of electricity by tampering with the meter, therefore, a penalty of Rs.83,214/- was imposed on the petitioner, vide memo Ex.P3 for committing theft of electricity energy and Rs.8000/- as compounding charges, vide memo Ex.P4. The petitioner had attacked those memos Ex.P3 and P4 as illegal on various grounds, contending that the electricity meter was not installed by the respondent after proper checking/testing from appropriate M&T Lab and when the meter was installed, no sample seal was shown to the petitioner; the mandatory provisions of checking were violated because alleged defective meter was not compared with checked meter as required by rules of checking; the meter was showing proper reading and the petitioner was paying the bills regularly; the petitioner could not possibly know the internal machinery of the meter and the respondent failed to show the test report of the meter issued by the laboratory relating to the meter of petitioner, which it was required to do before installation; the seals of the meter were intact, so there was no chance of tampering with the machinery of the meter etc.

According to the petitioner, no opportunity of hearing or to show cause was given to her before issuance of impugned memos. The objections of the petitioner filed on 16.03.2015 were not decided by the respondent before imposing penalty.

3. Notice of the petition was given to the respondent, who put

in appearance and filed written reply, raising various legal objections, contending that the Court had no jurisdiction to entertain the petition since Special Judge, adjudicates the civil liability only while adjudicating the criminal proceedings and not otherwise. According to the respondent, when its checking team went to the house of the petitioner on 27.01.2015, it was found that the electricity meter was installed inside the house and its seals were tampered. Accordingly, the meter was removed, sealed and sent for checking to the laboratory. The checking report was duly signed by the consumer i.e. petitioner Bimla Sahu. On 10.02.2015, the meter was checked in M&T Lab, Rohtak in the presence of the petitioner, which revealed that the seals were tampered and a joint was found in the wire which was connected between the counter gear and PCB to affect energy recording mechanism. An opportunity of personal hearing was granted to the petitioner on 25.02.2015 and on considering the consumption data, a case of theft of electricity energy was made out against the petitioner, therefore, a penalty of Rs.83,214/- was imposed on her for sanctioned load of 4 KW. The impugned memos were defended as legal and valid while coming with a prayer for dismissal of the petition.

4. The plaintiff filed replication, controverting the allegations in the written reply, whereas reiterating the averments in the petition. Issues on merits were framed.

5. Parties were afforded adequate opportunities to lead evidence in support of their respective claims.

6. After hearing arguments, learned Addl. District Judge, Rohtak, vide judgment/order dated 29.04.2016 dismissed the petition with costs, leaving the petitioner aggrieved and she has approached this Court by way of filing the present revision petition, notice of which was given to the respondent and it has put in appearance through counsel.

7. I have heard learned counsel for the parties besides going through the record and I find that there is no merit in the revision petition. The order passed by the Court of Addl. District Judge, Rohtak is quite detailed, well reasoned, based upon proper appraisal and appreciation of evidence and correct interpretation of law/rules. There is no illegality or infirmity therein, which might have called for interference by this Court while exercising revisional jurisdiction. The revision petition is found to be without merit and is dismissed accordingly.

25.01.2023
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(H.S. MADAN)
JUDGE

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