

CM-6061-C-2023 in/&
RSA-2013-2018 (O&M)

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2023:PHHC:080035

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-6061-C-2023 &
CM-5582-C-2018 in/&
RSA-2013-2018 (O&M)
Date of Decision :01.06.2023

Dakshin Haryana Bijli Vitran Nigam
Ltd.

...Appellant

Versus

Jagdish Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.S. Longia, Advocate for the appellants.

None for the respondent.

* * *

Harsimran Singh Sethi, J. (Oral)

CM-6061-C-2023

Present application has been filed for recalling the order dated 05.05.2023 passed by this Court by which, the main appeal was dismissed for non-prosecution.

Keeping in view the averments made in the application, which are duly supported by an affidavit, application is allowed. Order dated 05.05.2023 passed by this Court is recalled and the main appeal is ordered to be restored to its original number and status and is taken up for hearing today itself.

RSA-2013-2018

1. Present regular second appeal has been filed challenging the

judgment and decree of the lower Appellate Court dated 22.09.2017 by which, the judgment and decree of the trial Court dated 15.10.2015 has been set aside and the suit filed by the respondent-plaintiff was allowed.

2. As per office report, the respondent has already been served as far back in July, 2022 but no one is appearing on his behalf, hence respondent is proceeded ex-parte.

3. Learned counsel for the appellant submits that the findings have been recorded by the Courts below that the process envisaged under Section 126 of the Electricity Act, 2003 for provisional assessment of liability has not been followed and the recovery of the amount has been fastened upon the consumer by violating the rules of natural justice.

4. Learned counsel for the appellant submits that keeping in view the facts and circumstances of the present case, the present appeal may kindly be disposed of having been not pressed any further with liberty to the appellant to pass a fresh order of assessment in accordance with law after following due process of law as envisaged under the Electricity Act, 2003 by giving due opportunity of defence to the consumer.

5. Ordered accordingly.

CM-5582-C-2018

Application is also disposed of.

June 01, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No