

CWP-5818-2017(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-5818-2017(O&M)

Date of decision: 05.04.2024

Punjab State Power Corporation Limitedes & ors.

...Petitioners

Versus

Gurinderjit Singh & anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Ms. Anupama Bhanot, Advocate,
for the petitioners.

Mr. Kuldeep Singh, Advocate,
for respondent No.1.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present petition is to the impugned order dated 11.04.2016 (Annexure P-2) passed by Sub Divisional Officer (Civil), Hoshiarpur, exercising powers of the Tribunal in proceedings under Section 135 of Electricity Act 2003.

Learned counsel for the petitioners contends that respondent No.1 has got installed electricity connection No.H26MD530443L in his shop. The same was inspected by officials of the petitioner-licensee and found that respondent No.1 joined wires with LT from the said meter and operated one BHP motor for the cutter to cut the bamboos. He was also found operating a submersible motor. He was, thus, accused of committing theft of electricity for which case FIR No.62 dated 26.01.2015 was registered against him. An assessment under Section 135 (1-A) of the Electricity Act was conveyed to the petitioners, which was challenged by

instituting the proceedings before the Sub Divisional Officer (Civil), Hoshiarpur, exercising powers of the Tribunal. She argues that the proceedings in question were instituted on 19th March, 2015 and the order was passed by the Sub Divisional Officer (Civil), Hoshiarpur, exercising the powers of the Tribunal whereas the Government of Punjab has already issued notification bearing Memo No.14/16/04-2JUDL91, dated 03.12.2008, as per which the powers of the Special Court could only be exercised by the Additional Sessions Judge. She contends that determination of a civil liability could thus only be undertaken by the Special Court under Section 154 of the Electricity Act.

Learned counsel for respondent No.1, however, contends that the respondent-consumer faced the proceedings in the FIR that had been registered against him and that the Special Court has already passed a judgment of acquittal on 04.05.2018.

Be that as it may, the benefits which may enure in favour of the respondent-consumer by virtue of the judgment passed by the Special Court, Hoshiarpur, and that the said judgment of acquittal does not in any manner validate an order passed by an authority which was not competent to adjudicate in the matter arising out of the power in relation to proceedings under Section 135 of the Electricity Act. The order of the Sub Divisional Officer (Civil), Hoshiarpur, was thus without jurisdiction as notification conferring the jurisdiction in the matters relating to Section 135 of the Electricity Act has already been conferred upon the Additional Sessions Judge in the year 2008.

The present petition is, accordingly, allowed. The impugned

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order dated 11.04.2016 is, accordingly, set aside. Setting aside of the said order shall, however, have no bearing on the rights of the respondent/consumer which may have accrued in his favour in the meanwhile.

05.04.2024
monika

(VINOD S. BHARDWAJ)
JUDGE

Whether reasoned/speaking: Yes/No
Whether reportable: Yes/No