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

229

Date of decision : 20.03.2026

1. RSA-3691-2023 (O&M)

Dakshin Haryana Bijli Vitran Nigam Ltd. and another .. Appellants

versus

Ram Parkash Saini and others ...... Respondents

2. RSA-3696-2023 (O&M)

Dakshin Haryana Bijli Vitran Nigam Ltd. and another .. Appellants

versus

Ram Parkash Saini and others ...... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Kamal Krishan, Advocate for
Mr. S.K. Mahajan, Advocate
for the appellants.

Ms. Muskan Sharma, Advocate and
Mr. Ajaivir Singh, Advocate
for the respondents in RSA-3696-2023.

****

PANKAJ JAIN, J. (Oral)

1. By way of present judgment, I intend to dispose off above said two appeals as common question of law and facts are involved therein.

2. Defendants are in second appeal, aggrieved of the judgment and decree passed by the Courts below. For convenience, parties are being referred to by their original position in the suit i.e. the appellants as defendants and respondents as plaintiff.

3. In brief, plaintiff was a user of electricity connection bearing No.8092830000 for domestic purpose in the name of smt. Asha Rani. Plaintiff, who is the husband of Smt. Asha Rani received an electricity bill of Rs.2,08,342/- on 08.11.2019, inclusive of a sum of Rs.1,92,695/- as sundry charges. No details or show cause notice qua the alleged sundry was affixed with the bill. Only when plaintiff visited the office of defendant No.2, he was informed that his old meter of electricity connection was removed and checked in the lab and that there are allegations of theft of electricity against him. Thereafter, plaintiff deposited the alleged amount under protest to avoid disconnection of electricity meter. Act of defendants being unjustified, hence the present suit.

4. The Trial Court directed the defendants to refund the amount along with interest @ 7% per annum from the date of deposit till date of refund. Resultantly, suit of plaintiff was partly decreed with cost. The Lower Appellate Court allowed the appeal filed by plaintiff to get an amount of Rs.1,92,695/- along with interest @ 24% per annum instead. Further directed if the plaintiff so desires, the aforesaid amount be adjusted in future bills of plaintiff. Resultantly, appeal filed by defendants stands dismissed.

5. The issue involved in the present regular second appeal relates to jurisdiction of Civil Court qua disputes wherein the supplier alleges theft of electricity against consumer.

6. Case wherein theft of electricity is claimed by supplier, no FIR was registered and cognizance of complaint was not taken by Magistrate, this Court had an occasion in ***RSA No.1952 of 2024,*** titled

as ***"Sub Divisional Officer and another vs. Smt. Kamla Devi"*** decided on 27.10.2025 to deal with the issue in hand observing as under:-

> "xx xx xx
>
> 21. In view of the discussion held hereinabove and the scheme of the Act of 2003, it is held as under:
>
> (i) Once theft of electricity is discovered by the authorities, they are empowered to disconnect the supply of electricity. Under Section 145 of 2003 Act, no Civil Court shall have jurisdiction to entertain an application seeking injunction on such act by an officer/authority empowered under 2003 Act to disconnect the electricity.
>
> (ii) Within 24 hours of such disconnection, competent officer is obligated to lodge complaint, in writing, relating to commission of theft of electricity in police station having jurisdiction.
>
> (iii) In case, the consumer pays the assessed amount of electricity charges, the electricity will be restored within 48 hours of such deposit. However, it needs to be noticed herein that such assessment and corresponding deposit, is without prejudice to the obligation to lodge the complaint in writing.
>
> (iv) The Court can take cognizance of an offence under Section 135 of the Act upon a complaint, in writing, made by competent officer/authority or upon report of a police officer filed under Section 173 of Cr.P.C.
>
> (v) Offences prescribed under Sections 135 to 140 or Section 150, are cognizable and non-bailable offences.
>
> (vi) Once the police takes cognizance of the offence punishable under Sections 135 to 140 and Section 150, the first time offender can claim compounding of offence, as prescribed under Section 152. If the payment is made, a person in custody in connection with the offence, has to be set at liberty and no proceedings be instituted or continued against him in any criminal Court.
>
> (vii) Acceptance of such payment, shall amount to acquittal within the meaning of Section 300 of Cr.P.C., 1973.
>
> (viii) States may notify in the official gazette Special

Courts to try offences punishable under Sections 135 to 140 and Section 150 with the object of providing speedy trial. In terms of Section 153 Constitution of Special Courts under the 2003 Act, is for purpose of trying offence referred to in Sections 135 to 140 and Section 150. Determination of civil liability being incidental and dependant upon criminal liability of offender, Special Court has no power to grant injunction on disconnection of supply of electricity under Section 135 of the Act or jurisdiction to entertain such plea.

(ix) Any offence punishable under Sections 135 to 140 and Section 150, is triable only by the Special Court having jurisdiction over the area where the offence has been committed.

(x) The offence has to be tried by Special Court as a summary trial in accordance with the procedure prescribed under Code of Criminal Procedure, 1973.

(xi) The Special Court has to determine the Civil liability against the consumer or a person in terms of money *qua* theft of energy. The same shall not be less than an amount equivalent to two times of the tariff rate, applicable for a period of twelve months preceding the date of detection of theft or the exact period of theft, if determined, whichever is less.

(xii) The amount of the civil liability, so determined, is to be enforced like a Civil Court decree.

(xiii) The civil liability determined by the Special Court needs to be adjusted/set off against the amount deposited by the consumer subsequent to registration of case.

22. In view of above, this Court finds that the Division Bench having relied upon powers conferred by Section 154 to hold that the jurisdiction of Civil Court, is barred in the case of theft of energy, the ratio can be relied upon by the supplier only in the cases wherein compliance has been made to the provisions of Section 135. Which means that only when a complaint has been lodged by the competent officer/authority regarding theft of energy and the Special Court has taken cognizance of the offence pursuant to filing of such complaint

or filing of police report as per Section 151 of 2003 Act, the jurisdiction can be said to be barred invoking Section 154 of the Act of 2003.

23. In the absence of there being any complaint filed before the Special Court or FIR registered by the police authorities, the allegations of theft of energy, cannot assume the status of offence. In all those cases, where there is no FIR registered by the police authorities and/or complaint filed by the competent authorities before the Special Courts, the consumer is well within his right to approach the Civil Court alleging violation of the law and procedure prescribed therein. Reliance can be placed upon ratio of law laid down by Five Judges Bench of Supreme Court in the case of **Dhulabhai etc. vs. State of M.P. and anr, 1969 AIR (Supreme Court) 78** wherein the Supreme Court observed as under:

> "32. xxxxx. The result of this inquiry into the diverse views expressed in this Court may be stated as follows :-
>
> > **(1) Where the statute gives a finality to the orders of the special tribunals the civil court's jurisdiction must be held to be excluded if there is adequate remedy to do what the civil courts would normally do in a suit. Such provision, however, does not exclude those cases where the provisions of the particular Act have not been complied with or the statutory tribunal has not acted in conformity with the fundamental principles of judicial procedure.**
> >
> > **(2) Where there is an express bar of the jurisdiction of the court, an examination of the scheme of the particular Act to find the adequacy or the sufficiency of the remedies provided may be relevant but is not decisive to sustain the jurisdiction of the civil court.**
> >
> > Where there is no express exclusion the examination of the remedies and the scheme of the particular Act to find out the intendment becomes necessary and the result of the inquiry may be decisive. In the latter case it is necessary to see if the statute creates a special right or a liability and provides for the determination of the right or liability and further lays down that all questions about the said right and liability shall be

determined by the tribunals so constituted, and whether remedies normally associated with actions in civil courts are prescribed by the said statute or not.

(3) Challenge to the provisions of the particular Act as ultra vires cannot be brought before Tribunals constituted under that Act. Even the High Court cannot go into that question on a revision or reference from the decision of the Tribunals.

(4) When a provision is already declared unconstitutional or the constitutionality of any provision is to be challenged, a suit is open. A writ of certiorari may include a direction for refund if the claim is clearly within the time prescribed by the Limitation Act but it is not a compulsory remedy to replace a suit.

(5) Where the particular Act contains no machinery for refund of tax collected in excess of constitutional limits or illegally collected a suit lies.

(6) Questions of the correctness of the assessment apart from its constitutionality are for the decision of the authorities and a civil suit does not lie if the orders of the authorities are declared to be final or there is an express prohibition in the particular Act. In either case the scheme of the particular Act must be examined because it is a relevant enquiry.

(7) An exclusion of the jurisdiction of the civil court is not readily to be inferred unless the conditions above set down apply."

24. It also needs to be noticed herein that the 'assessed amount' as contemplated under 3rd proviso appended to Section 135(1A) is not relatable to assessment provided under Section 126 of the 2003 Act. The same rather refers to the amount assessed as per procedure prescribed by State Commissions in the Electricity Supply Code under Section 50 of the 2003 Act pursuant to the Electricity (Removal of Difficulties) Order, 2005, dated 08.06.2005.

25. Applying the aforesaid parameters to the present case, this Court finds that it is case where there is neither any FIR registered *qua* offence punishable under Section 135 nor any complaint preferred before the Special Court notified under Section 153, the jurisdiction of Civil Court, cannot be held to be barred invoking Section 154 of 2003 Act."

7. In the present case, neither FIR has been registered nor complaint was filed before Special Court. Theft of electricity is being alleged by supplier. Therefore, in the considered opinion of this Court, the present case is squarely covered by ratio of law laid down in ***Smt. Kamla Devi' case (supra).***

8. No other point has been argued.

9. In view thereof, finding no merits in the present appeal, i.e. RSA-3691-2023, the same is ordered to be dismissed.

10. RSA-3696-2023 is also ordered to be dismissed in terms of order passed in RSA-3691-2023.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

12. A photocopy of this order be placed on the file of other connected case.

(PANKAJ JAIN)
JUDGE

20.03.2026
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No