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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ RSA 92/2024

SEWA SINGH

.....Appellant

Through: Mr. Amit Kumar, Adv.

versus

BSES RAJDHANI POWER LTD.

.....Respondent

Through: Ms. Kirti Garg and Mr. Sharique Hussain, Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

13.01.2026

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1. Second Appeal under Section 100 read with Order XLII of C.P.C. has been filed on behalf of the Appellant Sewa Singh against judgment dated 06.02.2024 whereby the learned ADJ-01, New Delhi upheld the judgment of learned Civil Judge rejecting the Plaint of the Plaintiff / Appellant under Order VII Rule 11 of C.P.C.

2. **Brief facts** are that Plaintiff / Appellant was in possession property bearing No.38, Summan Bazar, Jungpura, Bhogal, New Delhi. Due to fluctuations in electric current and also high-low voltage in different phases, some personnel of the Defendant / Respondent BSES Rajdhani Power Limited came to his residence for checking his Electricity Meter bearing No.23765120 having the connection No.2540C7111019. It was noted that the Meter reading was 3248. The Meter was replaced with a new meter and previous Meter was sent to laboratory.



3. Appellant was given one page Meter Change Report, four pages of Inspection Report, three pages of Form of Assessment of connected load and one page of Corporate Legal and Enforcement Cell. Appellant being an uneducated person came to know about the nature of these papers when he contacted some other person.

4. It was asserted by the Appellant that as per allegations of the officials of Respondent, the Meter was showing current date 16.12.2001 and time 18:16:19 whereas the actual date was 25.04.2011 and actual time was 12:16. It was thus concluded by BSES, that Real Time Cloak (RTC) of the Meter had failed. It was also alleged that the Meter was found being used for commercial purpose, though it was allotted for the domestic purpose; it was concluded as the case of *S/DAE + UuE*.

5. Thereafter, an Inspection Report dated 25.05.2011, officials of Respondent BSES passed a speaking Order dated 21.07.2011, stating that the meter was showing reading of 3248 and defect was found on terminal block of the Meter and it was declared to be a tampered meter. The Meter was sent for testing. It was found to be a case of *tampering of meter*.

6. The Plaintiff / Appellant gave his Reply vide Application dated 27.07.2011, but Defendant / Respondent concluded that the Meter was used for the commercial purpose and raised a bill in the sum of Rs.46,945/-. A legal Notice dated 06.03.2011 was sent to the Appellant on account of direct theft and for use of meter for commercial purpose.

7. Plaintiff approached the Office of Defendant several times, but he was directed to deposit the demanded amount, despite him showing various Bills to show the consumption pattern and also the billing of new Meter. Despite several requests, the Meter No.24327540 was disconnected and Bill of



Rs.2330/- was issued, with the due date of 23.03.2014. Plaintiff claimed that he made the payment despite which he was being harassed for the act which were never committed by him.

8. Thereafter, he filed Civil **Suit No. 75/12**, but was dismissed on 14.10.2013 for lack of jurisdiction. Plaintiff, thereafter, approached *District Consumer Forum* where he was given liberty to file the Civil Suit. Thus, he filed Civil Suit, but the same also got rejected by the learned Trial Court under Order VII Rule 11 of C.P.C. *vide* Order dated 21.12.2022. **RCA DJ7/23** was thus, filed before learned ADJ, but the same also got dismissed on 06.02.2024, for the reason that the civil court has no jurisdiction over matters concerning electricity.

9. Aggrieved by the rejection, Appellant has challenged the impugned Order dated 06.02.2024 in present Second Appeal on the grounds that learned ADJ has dismissed the Appeal with cryptic Order. In the case of Santosh Hazari Vs. Purushottm Tiwari (Deceased) by Lrs., (2001) 3 SCC 179; Madhukar and others Vs Sangram and Others, (2001) 4 SCC 756; B. M. Narayana Gowda Vs Shanthamma (Dead) by Lrs. and Anothers, (2011) 15 SCC 476; H. K. N. Swami Vs Irshad Basith (Dead) By Lrs., (2005) 10 SCC 243; M/s Sri Raja Lakshmi Dyeing Works Vs Rangaswamy Chettiar, (1980) 4 SCC 259; Vinod Kumar Vs. Gangadhar, (2015) 1 SCC 391; and Malluru Mallappa (D) Thr. LRs. Vs. Kuruvathappa & Ors, decided on 12.02.2020, it has been held that the Appellate Court must display conscious application of mind and record findings supported by reasons on all issues and contentions.

10. It is further claimed that the Judgment dated 18.09.2019 passed by learned Trial Court was bad in law and contrary to the facts and



circumstances of the case, and that learned ADJ has committed serious error of law and fact by dismissing the Appeal without appreciating that no points of determination was framed by learned ADJ, which could reflect the conscious application of mind.

11. Correct law under Order VII Rule 11 of C.P.C. has been ignored, for which reliance has been placed on Sau Rajani Vs. Sau Smita & Anr., 2022 LiveLaw (SC) 702. It is claimed that Suit of Plaintiff could not have been rejected under Order VII Rule 11 of C.P.C.

12. The jurisdiction of Civil Court to try the Suit of civil nature is extensive, as has been held in the case of Dhulabhai vs. State of Madhya Pradesh, AIR 1969 SC 78 and Ramesh Gobindram vs. Sugra Humayun Mirza, (2010) 8 SCC 726.

13. The Application under Order VII Rule 11 of C.P.C. has been decided on the issues, which, in fact, require trial. The Reliefs claimed in the Suit, were beyond the scope of Electricity Act and the Suit was maintainable before the Civil Court.

14. It is further claimed that reliance has been wrongly placed on B. L. Kantroo vs. BSES Rajdhani Power Ltd., 2008 Law Suit (Del) 1967, by learned ADJ.

15. It is thus, submitted that impugned Order 06.02.2024 be set aside and the Suit be referred for trial on merits.

Submissions heard and record perused.

16. Plaintiff / Appellant had filed Suit for Declaration and Injunction and reliefs claimed are as under :

“(i) *Declare the bill for the sum of Rs.46,945/- and Rs.2330/- as null and void;*



- (ii) *Direct the defendant to either withdraw the electricity meter installed in the name of the plaintiff or from raising any bill contrary to law or harassing the plaintiff;*
- (iii) *Direct the defendant to reinstall the electricity meter no. 24327540, which was taken by the official of the defendant;*
- (iv) *A compensation of Rs.15000/- be awarded to the plaintiff for harassment and mental agony along with sum of Rs.7500/- towards cost of litigation.”*

17. Respondent / Defendant had taken a *preliminary objection* that the Suit was barred under Section 145 of the Electricity Act, 2003. It was claimed that on inspection, it was found that the Meter was showing wrong date and time. The meter was seized and sent for laboratory testing. A load of 0.90 KW for non-domestic purpose was found connected against the sanctioned load of 1.000 KW under the domestic category.

18. As per the *Energy Meter Test Report No. BRPL/11/14711 dated 03.06.2011*, there were by-pass marks were found on the terminal block of the meter, which indicated that the meter had been by passed via neutral to neutral and phase to phase, by installation of shunt wires for the purpose of manipulating the consumption; and consumption was found to be non-uniform and laboratory declared that the meter was found tampered.

19. It was found to be a case of theft of Energy under Sections 135 and 138 of the Electricity Act, 2003 and a speaking Order dated 21.07.2011 was made. A total bill of Rs.46,945/- with payment due date 24.10.2011, was raised.

20. Furthermore, since the electricity was found to be used for non-domestic purpose, penal rate of tariff became applicable for energy



consumption, as per provisions of Tariff Schedule and Section 126 of Electricity Act, 2003.

21. Defendant filed an Application under Order VII Rule 11 of C.P.C., wherein it was contended that the Civil Courts had no jurisdiction to entertain the suit in terms of Sections 126 and 127 along with Section 145 of the Electricity Act, 2003.

22. Learned Trial Court observed that the inspection was done on 25.05.2011 and the Bill for a sum of Rs.46,945/- was consequently raised. Bare perusal of Section 126 of Electricity Act, 2003 reflects that it provides the complete mechanism for making an assessment, where the consumer is found to be indulging in un-authorised use of electricity. Section 127 further provides that any person aggrieved by a final Order made under Section 126, may approach the Appellate Authority within thirty days of the said Order.

23. Section 145 of Electricity Act, 2003 clearly provides that no civil court shall have jurisdiction to entertain any Suit or proceeding in respect of any matter which an assessing officer referred to under Section 126 or an Appellate Authority referred to under Section 127 or the adjudicating officer appointed under this Act, is empowered to determine and no Injunction shall be granted by any Court, in regard to any action taken pursuant to the powers conferred by or under this Act.

24. This Court in B. L. Kantroo (*supra*) considered the similar facts as in hand and held as under:

*“28. It is well-settled that the exclusion of jurisdiction of civil court cannot be readily inferred and the normal rule is that civil courts have jurisdiction to try all suits of a civil nature except those of which cognizance by them is either expressly or impliedly excluded. **The scheme of the***



Electricity Act is complete in itself and thereby the jurisdiction of the civil court to take cognizance of the cases under the Act, by necessary implication, stood barred. The Act provides for the jurisdiction of the Tribunals and/or appropriate forum and also hierarchy of appeals or revisions and gives finality to the orders passed thereunder. This also necessarily implies that the jurisdiction of the civil court to take cognizance of the suit of civil nature covered under Electricity Act stands excluded. Consumer cannot approach civil court without exhausting alternative remedies provided under Electricity Act.”

25. It was thus, observed in B. L. Kantroo (*supra*) that the jurisdiction of Civil Court, has been excluded. As a consequence, the Suit filed before the Civil Court is not maintainable.

26. In the present case as well, essentially it is the Bill raised on account of misuse/tampering of the electricity meter, which has been challenged by way of Civil Suit, while in fact, the same should have been challenged before the *Appellate Authority, as defined under Section 127 of Electricity Act, 2003.*

27. Learned ASJ had also referred to Sau Rajani (*supra*), which was pertaining to dispute arising under Maharashtra Housing Development Act, 1976, which was specifically, in terms of provisions of that Act, held to be not relevant for the present case.

28. In Dhulabhai (*supra*), it was held that though the bar of jurisdiction of the Civil Court must not be likely interpreted and the test for determination of the jurisdiction of the Civil Courts is whether the Authority or the Tribunal, constituted under the statute, has the power to grant relief that Civil Court would normally give.



29. Applying the aforesaid Test to the present case, it is the Electricity Bill which has been challenged, for which the Appellate Authority had the absolute jurisdiction. The Civil Court therefore, has no subject jurisdiction to entertain the Suit.

30. It has been further rightly observed by learned ASJ that the relief for compensation on account of harassment and mental agony is consequential to the Report and the Bill being found incorrect. There is no such finding till date by any competent Forum. In these circumstances, the question of claiming compensation for harassment and mental agony is not maintainable. Learned ADJ has rightly dismissed the First Appeal.

31. There is no merit in this Second Appeal and no substantial question of law has been raised; the Appeal being without merit is dismissed.

32. Pending Applications, if any, also stand disposed of.

NEENA BANSAL KRISHNA, J.

JANUARY 13, 2026/R