



RSA-4651-2015 (O&M)

210

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-4651-2015(O&M)

Date of decision :25.07.2025

Dakshin Haryana Bijli Vitran Nigam Ltd & anr.

..... Appellants

Versus

Vishnu

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

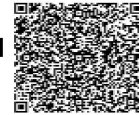
Present :- Ms. Divya Sharma, Advocate
for the appellants.Ms. Kusum Raj, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

1 Counsels for the appellants has relied upon ***Mahesh Kumar Vs. Sub Divisional Officer & anr., 2025(3) RCR (Civil) 303*** wherein the Division Bench of this Court has decided reference as under :-

“12. Thereafter, the learned Single Judge vide order dated 21.12.2016, thus framed the hereinafter extracted substantial question of law, for rendition of a decision thereons by an appropriate Bench, to be constituted by Hon’ble the Chief Justice.

“As to whether the bar contained in Section 145 of the Act, on the jurisdiction of the civil Court, would be restricted only to proceedings arising from an order passed by the Assessing Officer under Section 126 and an appellate authority under Section 127, or, in view of the



language contained in Sections 154 and 155, (read with Section 145 of the Act), such bar would extend to matters falling under Sections 135 to 140 and Section 150 of the Act also?”

xxx xxx xxx

43. *However, the conferment of the said jurisdiction, naturally has to be exercised, rather only after a conclusive and binding verdict of conviction becoming recorded against the errant concerned, and, not prior thereto. Conspicuously so, if there is a parallel determination of both civil and criminal liabilities, therebys if the civil liability is determined prior to the determination of the apposite criminal liability. As such, therebys the Special Court while trying an offender qua the ably triable offences, rather would become presented with a **fait accompli**. Moreover, in case there are different sets of evidences for respectively convicting the errant concerned, and, for encumbering the errant concerned, with compensation amounts, therebys also both the criminal trial as well as the determinations of civil liability(ies) against the errant concerned, rather are required to be naturally separately working. In other words, they are not required to be conjointly embarked upon, as therebys there would be encumbrance of gross hardship, vis-a-vis the errant/consumer concerned.*

44. *Therefore this Court is convinced, that only pursuant to a binding and conclusive verdict of conviction becoming made by the Special Court, vis-a-vis the errant consumer concerned, therebys the Special Court in terms of sub-Section (5) of Section 154 of the Act of 2003, shall proceed to determine the compensation amount to be paid by the consumer concerned, to the supplier concerned.”*



RSA-4651-2015 (O&M)

2 Whole of the emphasis of the answer to the reference by Division Bench is upon Section 154 of the Electricity Act, 2003 (for short ‘the Act of 2003’) which provides for adjudication of the criminal liability and thereafter that of civil liability.

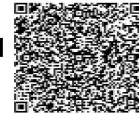
3 Thus in order to enure benefit from the order passed by the Reference Court, it is necessary for the electricity Corporations to show that an FIR came into being on account of theft discovered by them which led to proceedings before special Court under Section 154 of the Act of 2003. Admittedly in the present case there is neither any FIR nor any consequential trial before the special Court. In view thereof the reliance upon the order passed by the Division Bench is misplaced.

4 So far as the issue with respect to jurisdiction of the Civil Court in the absence of statutory procedure having not been followed by the statutory authorities is concerned, the issue is squarely covered by Constitution Bench in ***Dhulabhai etc. vs. State of M.P. and anr, 1969 AIR (Supreme Court) 78*** observing 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.”

5 Pure findings of fact have been recorded by the Courts below. Otherwise also in case the appellants alleged that the consumer-respondent was guilty of theft of electricity, they were required to get the FIR



RSA-4651-2015 (O&M)

registered as contemplated under Section 135 of the Act of 2003. The procedure having not been followed no fault can be found with the findings recorded by the Courts below.

6 Appeal stands dismissed.

7 Pending miscellaneous application, if any, also stands disposed off.

**(PANKAJ JAIN)
JUDGE**

25.07.2025

Pooja Sharma-I

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No