

(2011) 01 P&H CK 0336

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 190 of 2011 (O and M)

Dakshin Haryana Bijli Vitran Nigam and Others

APPELLANT

Vs

Mange Ram

RESPONDENT

Date of Decision : 13-01-2011

Acts Referred:

Constitution of India, 1950 — Article 227

Electricity Act, 2003 — Section 135, 140, 150, 153

Citation : (2011) 01 P&H CK 0336

Hon'ble Judges : Ram Chand Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ram Chand Gupta, J.

C.M. No. 776-CII of 2011

1. Application is allowed subject to all just exceptions.

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2. The present revision petition has been filed under Article 227 of the Constitution of India for setting aside impugned order dated 11.10.2010, Annexure P3, vide which application for dismissal of suit/rejection of the plaint due to not maintainable treating as preliminary issue, on the point of jurisdiction was dismissed by learned Civil Judge, Senior Division, Loharu.

3. I have heard learned Counsel for the Petitioners and have gone through the whole record carefully including the impugned order passed by learned Additional Civil Judge, Senior Division, Loharu.

4. Facts relevant for the purpose of decision of present revision petition are that a notice was issued by the present Petitioners to Respondent-Plaintiff for recovery of Rs. 38,89,454/- in respect of electricity connection No. BH41-001. However, the said notice was challenged by Respondent-Plaintiff in the present

suit, in which objection was taken on behalf of the present Petitioners that civil Court has got no jurisdiction on the plea that special Courts were constituted u/s 153 of the Electricity Act, 2003 (hereinafter to be referred as the "Act"). The request of the Petitioner was not acceded to by learned trial Court and the application for treating the issue regarding jurisdiction as preliminary issue was dismissed vide impugned order.

5. Section 153 of the Act is reproduced by Petitioner in his petition, which reads as under:

Part-XV

Special Courts

153. Constitution of Special Courts.-(1) The State Government may, for the purpose of providing speedy trial of offences referred to in Sections 135 - 140 and Section 150 by notification in the official Gazette, constitute as many Special Courts as may be necessary for such area or areas, as may be specified in the notification.

6. A bare perusal of the aforementioned Section shows that the Special Courts were constituted for trial of offences referred to in Sections 135 - 140 and Section 150 of the Act. He has failed to show this Court any provision in the said Act, which bars jurisdiction of Civil Court to challenge demand/recovery of electricity dues from a consumer. Hence, learned trial Court has rightly come to the conclusion that jurisdiction of Civil Court is not barred to entertain the suit disputing the payments claimed by Petitioner from the consumer regarding electricity dues.

7. Hence, it cannot be said that any illegality or material irregularity has been committed by learned trial Court in passing the impugned order warranting interference by this Court.

8. Law is well settled in *Surya Dev Rai v. Ram Chander Rai and Ors.* 2004(1) RCR 147 that mere error of fact or law cannot be corrected in the exercise of supervisory jurisdiction by this Court. This Court can interfere only when the error is manifest and apparent on the face of proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law and a grave injustice or gross failure of justice has occasioned thereby.

9. Hence, the present revision petition is hereby dismissed, being devoid of any merit.