

(1982) 10 P&H CK 0013

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 936 of 1973

Punjab State Electricity Board, Patiala

APPELLANT

Vs

The Punjab Wakf Board and others

RESPONDENT

Date of Decision : 04-10-1982

Acts Referred:

Citation : (1982) 10 P&H CK 0013

Hon'ble Judges : S.P. Goyal, J

Bench : Single Bench

Advocate : Harbhagwan Singh, for the Appellant; M.S. Liberan, for the Respondent

Final Decision : Dismissed

Judgement

S.P. Goyal, J.—This second appeal is directed against the judgment and decree of the learned Additional District Judge, Patiala, dated March 5, 1973 dismissing the appeal filed by the Punjab State Electricity Board as incompetent having not been filed by some properly authorised person by the Board. The appeal was filed by Mr. Bihari Lal, Advocate who appended a note in the Memorandum of Appeal that his power of attorney is already on the record of the trial Court. The learned Additional District Judge took the view that either the Board or somebody else authorised by the Board has to take decision for filing the appeal though the procedural formalities could be complied with by the counsel. This view has been challenged by the learned counsel for the appellant on the basis of the decision of this Court in the Municipal Committee, Pathankot v. Roshan Lal (1957) 59 P.L.R. 470. Although there are several other later Single Bench decisions which run counter to the rule laid down in this decision but it is not necessary to refer the matter to a larger Bench because even the decision in Roshan Lal's case does not help the appellant. In that case the appeal had been filed by the General Attorney of the Municipal Committee who had been authorised to defend the suit and on these facts, Chief Justice, A.N. Bhandari, took the view that the appeal being in continuation of the suit, the general attorney was competent to

file the appeal. In the present case, on the other hand, neither the power of attorney nor anybody else authorised by the Board had taken the decision to file the appeal. The counsel of its own was not competent to take such decision, though he could sign the appeal on behalf of the Board and present it. The filing of the appeal having not been thus authorised by a competent person, the learned Additional District Judge rightly dismissed it as incompetent. This appeal accordingly fails and is hereby dismissed but without any order as to costs.