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**(2010) 04 RAJ CK 0071**  
**In the Rajasthan High Court**

Sudbir Kumar

APPELLANT

Vs

J.V.V.N.L. and Another

RESPONDENT

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**Date of Decision :** 22-04-2010

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Electricity Act, 1910 — Section 26

**Citation :** (2010) 2 WLN 655

**Hon'ble Judges :** Vineet Kothari, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Vineet Kothari, J.—Heard learned Counsels.

2. This writ petition has been filed by the petitioner as a case of theft of power was made against the petitioner and certain dues of electricity charges were raised against the petitioner.

3. Against the said dues, the petitioner initially approached the Permanent Lok Adalat under the provisions of Legal Services Act, 1987 and on 18.7.2009, the said Lok Adalat held that a case in a competent criminal side Court had been filed by the respondent J.V.V.N.L. and that was pending and since the petitioner was demanding for summoning of defective meter itself in the said Lok Adalat which the said Lok Adalat found it was not practicable. Therefore, the said Lok Adalat observed that only when the criminal side case is decided and then the petitioner, if aggrieved, can approach the said Permanent Lok Adalat again.

4. Learned Counsel for the petitioner submits that since thereafter the respondents again disconnected the power supply of the petitioner, therefore, the petitioner was left with no other remedy but to approach this Court by way of present writ petition. Under the interim order of this Court, the petitioner had deposited Rs. 18,000/- against the alleged dues of around Rs. 50,000/- raised by the respondent Corporation, the power connection was restored. The matter

came up on the application filed under Article 226(3) of the Constitution of India for vacating the stay order.

5. Learned Counsel for the respondents submits that under the said interim protection given by this Court, the petitioner has even not paid the regular bills for the month of August, 2008 and October, 2008 to March, 2009 to the tune of Rs. 23,453/- and coupled with the amount of Rs. 24,731/- which was put in a deferred account in the billing month of March 2008 on account of the matter being subjudice, the total dues against the petitioner would be to the tune of around Rs. 48,000/-.

6. Learned Counsel submits that the petition involves seriously disputed questions of fact and it being a case of electricity theft where a device was found near the power meter installed by the respondent Corporation at the business place of the petitioner which interfered with proper recording of power consumption and for which a criminal action is also taken against the petitioner, this writ petition cannot be entertained by this Court under Article 226 of the Constitution of India.

7. On the other hand, Mr. Sanjeet Purohit, learned Counsel appearing for the petitioner has filed copies of certain bills along with his counter affidavit as Annexure 8 to 13 in which in column No. 21 besides outstanding dues of Rs. 49,462/- some reducing figures in minus have been shown in these bills. He, therefore, submits that this shows that the petitioner is paying regular monthly bills and since the power supply was disconnected, he was left with no other remedy but to approach this Court by way of this writ petition.

8. Having heard learned Counsels, this Court is of the opinion that seriously disputed questions of fact are involved in the case. While on the one hand the petitioner says that he is paying regular bills and the respondents have demonstratively shown before this Court that the petitioner is not depositing the regular monthly bills under the garb of interim stay order granted by this Court. The outstanding dues of Rs. 49,000/- and odd has been shown in the regular monthly bill against the petitioner. The petitioner had approached the Permanent Lok Adalat also which for the reasons stated in the order dated 18.7.2009 declined to interfere at that stage and left the petitioner free to approach the said Lok Adalat again after the criminal case is decided by the competent Court. The case, therefore, obviously involves seriously disputed questions of fact and the petitioner has alternative remedy to either go before the departmental authorities including the Settlement Committee constituted by them for this purpose or Electrical Inspector in accordance with the provisions of Section 26(6) of the Indian Electricity Act or he can even approach civil Court by way of civil suit since the disputed questions of fact are involved, which cannot be decided in writ jurisdiction.

9. Consequently, this writ petition is dismissed.