

Reserved on: 2.5.2025
Date of Decision: 14.5.2025

Sr. No.	Case No.	Title
1.	<i>RSA No. 4181 of 2016</i>	<i>MAHESH KUMAR V/S SUB DIVISIONAL OFFICER & ANR.</i>
2.	<i>CWP-18913-2014</i>	<i>ASHWANI KUMAR V/S PUNJAB STATE POWER CORPORATION</i>
3.	<i>LPA-203-2021</i>	<i>PARAMJEET KAUR V/S UTTAR HARYANA BIJLI VITRAN NIGAM LTD. AND OTHERS</i>
4.	<i>RSA-1258-2019</i>	<i>S.D.O., UTTAR HARYANA BIJLI VITRAN NIGAM V/S INDER BANSAL</i>
5.	<i>RSA-1634-2020</i>	<i>UTTAR HARYANA BIJLI NIGAM AND ANOTHER V/S SANJEEV KUMAR</i>
6.	<i>RSA-1945-2019</i>	<i>UTTAR HARYANA BIJLI VITRAN NIGAM LTD. AND ANR V/S JASWANT SINGH</i>
7.	<i>RSA-2146-2019</i>	<i>UTTAR HARYANA BIJLI VITRAN NIGAM LTD. V/S RANPAL</i>
8.	<i>RSA-2207-2019</i>	<i>UTTAR HARYANA BIJLI VITRAN NIGAM LTD (UHBVNL) AND OTHERS V/S SAROJ DEVI</i>
9.	<i>RSA-336-2021</i>	<i>UTTAR HARYANA BIJLI VITRAN NIGAM LTD AND ORS V/S AJAIB SINGH</i>
10.	<i>RSA-4733-2019</i>	<i>UTTAR HARYANA BIJLI VITRAN NIGAM LTD. AND OTHERS V/S DHOOP SINGH</i>
11.	<i>RSA-4928-2016</i>	<i>DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD AND ORS V/S KHUSHI RAM AND ORS</i>
12.	<i>RSA-5657-2019</i>	<i>UTTAR HARYANA BIJLI VITRAN NIGAM LTD. AND ORS. V/S BALDEV RAJ</i>
13.	<i>RSA-5691-2019</i>	<i>UTTAR HARYANA BIJLI VITRAN NIGAM LTD. AND ANR V/S RAJIV GUPTA</i>
14.	<i>RSA-6251-2016</i>	<i>RAJENDER SINGH V/S DAKSHIN HARYANA BIJLI & ANR</i>
15.	<i>RSA-6362-2018</i>	<i>DAKSHINI HARYANA BIJLI VITRAN NIGAM LTD. V/S RAKESH GOYA</i>
16.	<i>RSA-705-2019</i>	<i>UHBVNL AND ORS V/S CHANDI RAM</i>
17.	<i>RSA-811-2020</i>	<i>UTTAR HARYANA BIJLI VITRAN NIGAM AND ANR V/S RAVINDER GUPTA</i>
18.	<i>RSA-3091-2016</i>	<i>UTTAR HARYANA BIJLI VITRAN NIGAM LTD AND ANR V/S SATINDER KAUR</i>
19.	<i>RSA-992-2022</i>	<i>SDO (OP) SUB DIVISION NO 2, UTTAR HARYANA BIJLI VITRAN NIGAM AND ANR V/S SANTOSH AND ANR</i>
20.	<i>RSA-3800-2017</i>	<i>UHBVNL AND ANR V/S BUTA SINGH</i>

		DECEASED THROUGH LRS
21.	RSA-3003-2016	SUB DIVISIONAL OFFICER OP UHBVNL V/S DINESH KUMAR
22.	RSA-21-2022	SUB DIVISIONAL OFFICER (OP), UHBVN, CITY MODEL TOWN AND OTHERS V/S BALVINDER
23.	RSA-763-2022	SUB DIVISIONAL OFFICER, (OP) SUB DIVISION OFFICE AND ANOTHER V/S HARJEET SINGH
24.	RSA-5309-2019	UTTAR HARYANA BIJLI VITRAN NIGAM LIMITED(UHBVN) AND OTHERS V/S GURSARAN SINGH
25.	RSA-1037-2022	SDO (OP) SUB-DIVISION UTTAR HARYANA BIJLI VITRAN NIGAM CHEEKA AND ANR V/S SURESH PAL AND ANR
26.	RSA-5661-2015	DAKSHIN HARYANA BIJLI VITRAN NIGAM AND ANR V/S KRISHAN KUMAR
27.	RSA-3413-2019	DHBVNL AND ANOTHER V/S RAMESH KUMAR
28.	RSA-1766-2022	UTTAR HARYANA BIJLI VITRAN NIGAM LT AND ANR V/S SURENDER KUMAR
29.	RSA-5353-2019	S D O OP CITY SUB DIVISION DAKSHIN HARYANA BIJLI VITRAN NIGAM V/S SANDEEP KUMAR
30.	RSA-1734-2022	DAKSHIN HARYANA BIJLI VITRAN NIGAM LIMITED AND ANOTHER V/ S DOLLY CHAUTANI
31.	RSA-1484-2022	DAKSHIN HARYANA BIJLI VITRAN NIGAM AND OTHERS V/S SURESH KUMAR
32.	RSA-280-2023	DHBVN AND ANR V/S DALBIR
33.	RSA-530-2023	UTTAR HARYANA BIJLI VITRAN NIGAM LTD. AND ANR V/S SUKHDEV SINGH AND ANR
34.	RSA-4630-2019	SUB DIVISIONAL OFFICER (OP) UHBVNL SUB DIVISION GARHI BIRBAL V/S JITENDER KUMAR
35.	RSA-2547-2022	DAKSHIN HARYANA BIJLI VITRAN NIGAM AND ANR V/S SANGAT SINGH
36.	RSA-2190-2023	UHBVN AND OTHERS V/S SAT PARKASH
37.	RSA-2216-2023	THAWAR SINGH V/S DHBVNL THROUGH MANAGING DIRECTOR AND OTHERS
38.	RSA-3137-2023	BALJEET GARG @ BALJEET V/S DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD. AND OTHERS
39.	RSA-4833-2016	UTTAR HARYANA BIJLI VITRAN NIGAM LIMITED V/S INDERJIT SINGH
40.	RSA-3642-2023	UHBVNL AND ANR V/S AJIT NARWAL
41.	RSA-2647-2023	SUB DIVISIONAL OFFICER OP SUB DIVISION MADLAUDA AND ANR. V/S NARESH AND ANR
42.	RSA-3700-2023	DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD

		AND ANOTHER V/S SUREKHA AND ANOTHER
43.	RSA-6433-2016	UHBVNL & ANR. V/S ISHWAR SINGH
44.	RSA-3865-2023	THE EXECUTIVE ENGINEER, DAKHSIN HARYANA BIJLI VITRAN NIGAM, DHARUHERA AND OTHERS V/S SANJAY
45.	RSA-3910-2023	DAKSHIN HARYANA BIJLI VITRAN NIGAM AND ANOTHER V/S SHASHI ARORA
46.	RSA-3948-2023	EXECUTIVE ENGINEER OP SUB DIVISION DHBVN, REWARI AND ANOTHER V/S PREET PAL SINGH AND ANOTHER
47.	RSA-3953-2023	UTTAR HARYANA BIJLI VITRAN NIGAM AND ANOTHER V/S JASPAL SINGH
48.	RSA-1146-2022	DAKSHIN HARYANA BIJLI VITRAN NIGAM AND ANOTHER V/S RAJ KUMAR
49.	RSA-152-2024	DAKSHIN HARYANA BIJLI VITRAN NIGAM AND ANOTHER V/S RAM KUMAR
50.	RSA-3846-2023	SUPERINTENDING ENGINEER AND ANOTHER V/S VIKRAM
51.	RSA-246-2024	UHBVNL SUB DIVISION SADHAURA AND OTHERS V/S RAM PAL
52.	RSA-5295-2016	MANAGING DIRECTOR UTTAR HARYANA BIJLI VITRAN NIGAM LTD & ANR V/S PARTAP SINGH
53.	RSA-421-2024	SUB DIVISIONAL OFFICER (OP) V/ S GURJANT SINGH
54.	RSA-3691-2023	DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD AND ANOTHER V/S RAM PARKASH SAINI AND OTHERS
55.	RSA-3696-2023	DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD AND ANOTHER V/S RAM PARKASH SAINI AND OTHERS
56.	RSA-2302-2018	ANIL KUMAR V/S PUNJAB STATE POWER CORPORATION LTD & ANR
57.	RSA-528-2024	UTTAR HARYANA BIJLI VITRAN NIGAM LTD. AND ANOTHER V/S MANOJ RANA
58.	RSA-621-2024	DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD V/S RAJESH GAUBHA
59.	RSA-1142-2021	UHBVN KALAYAT V/S PAWAN KUMAR (DECEASED) THROUGH HIS LRS
60.	RSA-6106-2018	DAKSHIN HARYAN BIJLI VITRAN NIGAM AND ANR V/S KURDA RAM
61.	RSA-967-2021	DHBVN PANCHKULA AND ANOTHER V/S BASIC INDIA LTD
62.	RSA-664-2024	CHANDER PARKASH V/S UTTAR HARYANA BIJLI VITRAN NIGAM LITD AND OTHERS
63.	RSA-93-2024	UTTAR HARYANA BIJLI VITRAN NIGAM LTD. V/S SUNIL AND ANOTHER

64.	RSA-1461-2024	UTTAR HARYANA BIJLI VITRAN NIGAM AND ANOTHER V/S MUNICIPAL COMMITTEE TARAORI
65.	RSA-1463-2024	JATINDER SINGH DECEASED THROUGH LRS V/S UTTARI HARYANA BIJLI NIGAM AND OTHERS
66.	RSA-1319-2024	SUB DIVISIONAL OFFICER (OP) UHBNV SUB DIVISION MEERUT ROAD KARNAL V/S VIRENDER KUMAR
67.	RSA-843-2024	SUB DIVISIONAL OFFICER OPERATION SUB DIVISION AND ANOTHER V/S RAMESH ALIAS NARESH
68.	RSA-1174-2021	SDO BADSHAHPUR DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD V/S NARENDER PAL
69.	RSA-1812-2024	THE SUPERINTENDING ENGINEER, DAKSHIN HARYANA BIJLI VITRAN NIGAM, REWARI AND OTHERS V/S BHUPENDER SINGH
70.	RSA-1106-2021	SUB DIVISIONAL OFFICER (OP), UTTAR HARYANA BIJLI VITRAN NIGAM LIMITED V/S AMIT
71.	RSA-1089-2021	THE SUB-DIVISIONAL OFFICER DAKSHIN HARYANA BIJLI VITRAN NIGAM AND ORS V/S I.S ARORA AND ORS
72.	RSA-850-2024	UTTAR HARYANA BIJLI VITRAN NIGAM LTD. AND ANOTHER V/S NARENDER KUMAR
73.	RSA-993-2021	DAKSHIN HARYANA BIJLI VITRAN NIGAM LIMITED V/S ANKIT GOYAL
74.	RSA-651-2024	UTTAR HARYANA BIJLI VITRAN NIGAM AND ANR V/S RAJINDER KUMAR AND ANR
75.	RSA-783-2021	SUB DIVISIONAL OFFICER UHBNV AND ANR. V/S PREM NATH
76.	RSA-3333-2019	SUB-DIVISIONAL OFFICER (OP) UHBNV CITY SUB-DIVISION V/S RAJINDER JAIN
77.	RSA-2566-2019	UTTAR HARYANA BIJLI VITRAN NIGAM LTD. AND ANOTHER V/S GHANSHYAM DASS
78.	RSA-1375-2024	DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD. V/S INDER SINGH
79.	RSA-1886-2024	SDO (OP) SUB DIVISION DHBVN NARWANA AND ANOTHER V/S SURJEET SINGH
80.	RSA-972-2021	UHBVNL LIMITED KAITHAL VS. BALWANT
81.	RSA-1096-2021	UTTAR HARYANA BIJLI VITRAN NIGAM LTD ANF ORS V/S SAURABH VASHISHT
82.	RSA-2033-2024	UHBVNL AND OTHERS V/S SHAB KAUR
83.	RSA-248-2022	UTTARI HARYANA BIJLI VITRAN NIGAM LTD AND OTHERS V/S LALIT
84.	RSA-1206-2024	UHBVNL V/S BACHAN SINGH AND OTHERS
85.	RSA-2220-2024	UTTAR HARYANA BIJLI VITRAN NIGAM

		LIMITED V/S GURMEET SINGH
86.	RSA-2493-2024	PUNJAB STATE POWER CORPORATION LIMITED AND OTHERS V/S SRI GURUDWARA HAJI RATAN SAHIB
87.	RSA-2120-2024	THE SUB DIVISIONAL OFFICER UHBVN ND ORS V/S DHARAMPAL
88.	RSA-1695-2024	DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD AND ANOTHER V/S PAWAN @ RINKU
89.	RSA-3881-2023	EXECUTIVE ENGINEER, OP, DIVISION SU II UHBVNL AND ANOTHER V/S MAINPAL AND OTHERS
90.	RSA-2533-2024	UHBVNL V/S RAJBALA
91.	RSA-2553-2024	SURESH V/S UTTAR HARYANA BIJLI VITRAN NIGAM LTD AND ORS
92.	RSA-2014-2024	UHBVN LTD. AND ANR V/S SURENDER DAHIYA
93.	RSA-2063-2024	UHBVNL AND ORS V/S PRIYA CHOUDHARY
94.	RSA-2072-2024	UHBVNL AND ANOTHER V/S KIRPAL SINGH
95.	RSA-2803-2024	UTTAR HARYANA BIJLI VITRAN NIGAM LIMITED AND ANR V/S SANDEEP
96.	RSA-2731-2024	DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD AND ANR V/S VIKAS KUMAR AND ANR
97.	RSA-3002-2016	UTTAR HARYANA BIJLI VITRAN NIGAM LTD & ANR V/S ISHWAR SINGH
98.	RSA-737-2022	THE SUB DIVISIONAL OFFICER DHBVN AND ANOTHER V/S SATPAL
99.	RSA-1065-2021	S. D. O (OP) DHBVN V/S AAS MOHAMMAD
100.	RSA-2000-2024	UTTAR HARYANA BIJLI VITRAN NIGAM LTD AND ORS V/S SURENDER KUMAR
101.	RSA-772-2025	DAKSHIN HARYANA BIJLI VITRAN NIGAM AND ANR V/S ZILE SINGH
102.	RSA-782-2025	DAKSHIN HARYANA BIJLI VITRAN NIGAM AND ANOTHER V/S M/S JITENDER VINOD KUMAR
103.	RSA-2093-2023	SURESH KUMAR JAIN V/S PUNJAB STATE ELECTRICITY BOARD AND ORS
104.	RSA-7-2022	I.S. ARORA V/S DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD. AND ORS.

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Argued by: Mr. B.R. Mahajan, Sr. Advocate with
Mr. Anil Chawla, Advocate,
Mr. Arvind Seth, Advocate,
Mr. S.K. Mahajan, Advocate,
Mr. Madhur Singh, Advocate
Mr. R.S.Longia, Advocate ,

Mr. Prateek Mahajan, Advocate
Ms. Baani Mahajan, Advocate and
Ms. Nitika Goel, Advocate for the appellant(s)-DHBVNL &
UHBVNL in RSA Nos.1258-2019, 6362-2018, 992-2022,
21-2022, 763-2022, 1037-2022, 5353-2019, 530-2023,
2547-2022, 3642- 2023, 2647-2023, 3700-2023, 3910-2023,
3948-2023, 1146-2022, 152-2024, 3691-2023, 3696-2023,
93-2024, 843-2024, 1174-2021, 1106-2021, 1089-2021,
993-2021, 783-2021, 3333-2019, 1886-2024, 1096-2021,
4928-2016, 5657-2019, 5691-2019, 2220-2024, 2072-2024,
2063-2024, 3953-2023 & RSA-2000-2024 &
RSA Nos. 4181-2016, 6251-2016, 3137-2023 and 2216-2023,
1695- 2024, 1734-2022, 2014-2024,246-2024, 280-2023,
2803-2024, 3865-2023, 421-2024.

Mr. B.R. Mahajan, Sr. Advocate, assisted by
Ms. Nitika Goel, Advocate,
Mr. R.S. Longia, and
Mr. Madhur Singh, Advocate for the appellant(s)-DHBVNL &
UHBVNL in RSA Nos. 1945-2019, 2146-2019, 2207-2019,
336-2021, 4733-2019, 705-2019, 811-2020, 3800-2017,
3003-2016, 5309-2016, 5661-2015, 3413-2019, 4833-2016,
6106-2018, 1461-2024, 1319-2024, 2566-2019, 4743-2019,
3989-2019, 3091-2016, 3273-2015, 3854-2015, 725-2020,
6809-2016, 5823-2018, 2217-2015, 5250-2015, 5072-2018,
2410-2016 and 5139-2014.

Mr. Shvetanshu Goel, Advocate for
Mr. Shrey Goel, Advocate for the appellant(s)
in RSA-4181-2016.

Mr. Gagneshwar Walia, Advocate
for the appellant (in RSA-2493-2024).

Mr. V.K. Kaushal, Advocate for the appellants
in RSA No.1634-2020.

Mr. Gaurav Chopra, Sr. Advocate with
Mr. Eashan Bhardwaj, Advocate for the petitioner(s)
in CWP-18913-2014.

Mr. Arvind Seth, Advocate
for the appellant (in RSA-1484, 1481-2022, 3846-2023,
64-2024).

Mr. Madhur Singh, Advocate for the appellant(s)- DHBVNL &
UHBVNL (in 1695- 2024, 1734-2022, 2014-2024,246-2024,
280-2023, 2803- 2024, 3865-2023, 421-2024).

Mr. Ashish Rana, Advocate and
Mr. S.K.Rana, Advocate

for appellant(s) (in RSA-664-2024).

Mr. Munish Gupta, Advocate and
Mr. Paras Kukkar, Advocate for the appellant
(in RSA-3137- 2023).

Mr. Digvijay Singh Nehra, Advocate
for appellant (in RSA-528-2024).

Ms. Bhupinder Kaur, Advocate for the appellant(s)
(in RSA-3091-2016 & 3002-2016).

Ms. Sarita, Advocate for
Mr. Abhilaksh Grover, Advocate
for appellant (in RSA-6433-2016).

Ms. Geeta Rani, Advocate
for appellant (in RSA-1375, 1206, 2120 & 1812-2024).

Mr. Kunal Soni, Advocate for Mr. Prateek Mahajan, Advocate
for the appellant (in RSA-248-2022).

Mr. Kunal Soni, Advocate for
Ms. Baani Chhibber Mahajan, Advocate
for respondent (in RSA-1463-2022) and
for appellant (in RSA-1766-2022).

Mr. Vaibhav Sehgal, Advocate and
Ms. Vardhani Gupta, Advocate for the appellant(s).
(in RSA No.2093-2023)

Mr. M.T. Tagore, Advocate for the appellant
(in RSA No. 850-2024.)

Ms. Anuradha, Advocate for
Mr. Shashikant Gupta, Advocate for the applicant-appellant.
(in CM-7547-C-2023 & RSA-2216-2023).

Mrs. Vashundhra Asija Bhandari, Advocate for the
appellant(s) (in RSA-772-2025 and RSA 782-2025).

Mr. Pravindra Singh Chauhan, A.G. Haryana with
Mr. Ankur Mittal, Addl. A.G., Haryana,
Ms. Svaneel Jaswal, Addl. A.G., Haryana,
Mr. Pardeep Prakash Chahar, Sr. DAG, Haryana and
Mrs. Vashundhra Asija Bhandari, Advocate
for the State of Haryana.

Mr. Nikhil Chopra, Advocate and
Mr. Shubham, Advocate
for appellant (in RSA-967, 972, 1065 and 1142-2021)

Mr. Satya Veer Singh, Advocate for
Mr. Abhyndaya Paliwal, Advocate for the respondent
(in RSA-4181-2016 and 3002-2016).

Mr. Rohit Rana, Advocate for the respondent
(in RSA-3333-2019).

Mr. Kamlesh, Advocate for the respondent (in RSA-811-2020).

Mr. Kartar Singh Malik, Advocate
for appellant (in RSA-5295-2016 & 4181-2016).

Mr. Baldev Raj Mahajan, Sr. Advocate assisted by
Ms. Nikita Goel, Advocate for appellant (in RSA-651-2024).

Mr. Manu K. Bhandari, Advocate and
Mr. Arjun Sawhni, Advocate for appellant (in LPA-203-2021).

Ms. Anuradha, Advocate
for the appellant (in RSA-2216-2023).

Dr. Neha Awasthi, Advocate
for the petitioner (in RSA-4630-2019)

Mr. Neeraj Goel, Advocate
for respondent (in RSA-1258 & 705-2019).

Mr. Rajesh Jangra, Advocate
for respondent (in RSA-3413-2019).

Ms. Parveen Sharma, Advocate for the respondent
(in RSA-3003-2016).

Mr. Vikas Prakash, Advocate and
Mr. G.S.Virk, Advocate for the respondent (in RSA-5657-2019).

Mr. Abhishek Jindal, Advocate
for respondent (in RSA-1096-2024).

Ms. Prena Malhotra, Advocate for the appellant.
(in RSA-2533-2024).

Mr. Kunal Soni, Advocate for
Mr. Prateek Mahajan, Advocate for the appellant.
Mr. M.S.Virk, Advocate for the respondent
(in RSA-2493-2024).

Mr. Komal Rana, Advocate for
Mr. Abhimanyu Singh, Advocate for respondent
(in RSA-1945-2019).

Mr. Veneet Sharma, Advocate and
Mr. Mayank M. Mahla, Advocate for the appellant
(in RSA No.2302-2018).

Mr. Ajayvir Singh, Advocate for the appellant
(in RSA-7-2022).

Mr. Pawan Kumar, Advocate for
Mr. Saurabh Arora, Advocate
for respondent (in RSA-2207-2019).

Mr. Tushar Kush, Advocate for
Mr. Akshay Kumar Jindal, Advocate for respondent
(in RSA-3091-2016).

Mr. M.S. Virk, Advocate for
Dr. Puneet Kaur Sekhon, Advocate for respondent
(in RSA-2493-2024).

Ms. Amandeep Kaur, Advocate for
Ms. Sonia G. Singh, Advocate
for respondent (in RSA-4833-2016).

Mr. Nitin Jain, Advocate for
Ms. Vanshika Sharma, Advocate for the respondent
(in RSA-248-2022).

Mr. Brijender Kaushik, Advocate for the
respondent in RSA-1634-2020.

Mr. Namit Khurana, Advocate
for respondent (in RSA-2146-2019)

Mr. Saajan Singla, Advocate for the respondent(s).
in RSA-2014-2024.

Mr. Vishal Chaudhri, Advocate
for respondents No.1 to 4 (PSPCL) (in CWP-18913-2014).

Ms. Swati Dayalam, Advocate
for respondents No.1 to 4 (PSPCL) (in RSA-388-2021)

Mr. Sachin Sharma, Advocate for
Mr. Aman Bahri, Advocate for respondents No.1 to 3
(in LPA-203-2021).

Mr. Munish Mittal, Advocate
for respondent (in RSA-5295-2016 and 6433-2016).

SURESHWAR THAKUR, J.

1. Since a common question of law is involved in all the cases (supra), therefore, the said question of law is amenable to be answered through a common verdict being made thereons.

2. For brevity, the facts are being taken from ***RSA No. 4181 of 2016.***

3. Initially, a civil suit bearing RBT No. 31 of 2011, became preferred by plaintiff-Mahesh Kumar in the Court of the learned Addl. Civil Judge, Senior Division, Jind, seeking a declaration, thus for declaring, as illegal, null and void rather the checking report dated 17.11.2011, as well as Memo No. 872/CA dated 22.11.2011, and Memo No 876/CA dated 22.11.2011, whereby became respectively assessed amounts of Rs. 2,93,628/ and Rs. 90,000/-, thus towards penalty and compounding of offence against account No DB21-1605(CS) of the plaintiff therein.

4. It is averred in the supra suit that the plaintiff is the consumer of the defenedant concerned, and, has been regularly paying the consumption bills and nothing is due towards him. It is further averred that the checking report dated 17.11.2011, was not prepared at the site, but became prepared in the office of the defendant concerned, and, the person, who had signed the alleged checking report, did not disclose his/her designation. The plaintiff did not commit any theft of energy and the checking report also does not speak about any theft of energy. It is further averred that the subsequent memo No. 872/CA dated 22.11.2011, whereby Rs. 2,93,268/- became assessed as penalty, is illegal, null and void. The plaintiff was not heard before the issuance of the aforesaid notice, and, the mandatory provisions of Section 126 of the Electricity Act, 2003, were not complied with.

5. Furthermore, it is averred that as per the checking report dated 17.11.2011, the meter load though as alleged, though not admitted, was 0.746 KW, and, which allegedly became unauthorizedly used, whereas, the amount has been assessed on 9 KW, which was illegal, because as per the checking report only 0.746 KW load was unauthorized and the amount has to be assessed on that meter load only. In addition, it is averred that Memo No. 876/CA dated 22.11.2011, whereby an amount of Rs. 90,000/- has been assessed for the compounding of the relevant offence, was also illegal, as under Section 152 of the Electricity Act, 2003 (for short '*the Act of 2003*'), the defendants concerned, cannot compel the plaintiff to deposit the above amount. Hence, the present suit.

6. The said suit became contested by the defendants concerned by filing their written statement(s).

7. On the contentious pleadings of the parties, the following issues became struck by the learned lower Court concerned:-

- (i) *Whether the plaintiff is entitled for decree of declaration to the effect that checking report dated 17.11.2011 and memo No. 872/CA dated 22.11.2011 and memo No. 876/CA dated 22.11.2011 are wrong, illegal, null and void and are liable to be set aside ? OPP*
- (ii) *If issue No. 1 is proved in affirmative, whether the plaintiff is entitled for decree of permanent injunction restraining the defendants from disconnecting his electric connection of plaintiff and making recovery of the impugned amount forcibly ? OPP*
- (iii) *Whether suit is not maintainable in the present form ? OPD*
- (iv) *Whether the plaintiff is stopped from filing the present suit by his own act and conduct ? OPD*
- (v) *Whether the plaintiff has not come in the Court with clean hands and has suppressed the material facts ? OPD*

(vi) *Whether the plaintiff has not cause of action and locus standi to file the present suit ? OPD*

(vii) *Relief.”*

8. The learned lower Court concerned, on 28.2.2013, after considering the adduced evidence, on the above said issues, decreed the plaintiff's suit.

9. Feeling aggrieved, the defendants filed an appeal thereagainst before the learned District Judge, Jind, appeal whereof became allowed on 2.9.2015, and, thereby the plaintiff's suit was dismissed.

10. Feeling dis-satisfied from the afore verdict, whereby the suit of the plaintiff became dismissed, thus the plaintiff (appellant herein) preferred thereagainst the instant Regular Second Appeal before this Court.

11. When *RSA Nos. 4181 and 4928 of 2016* became listed before the Bench concerned on 21.12.2016, the hereinafter extracted relevant submissions were made by the learned counsel for the litigants concerned.

“2. Learned counsel for the parties have addressed arguments, with Mr. Pankaj Jain, learned counsel appearing for the appellants in RSA No.4928 of 2016, drawing attention to Section 153 of the Act also, wherein it is stipulated that the State Government may, for the purposes of providing speedy trial of the offences referred to in Sections 135 to 140 and Section 150, constitute as many Special Courts as may be necessary, for such area or areas, as may be specified in the notification.

It is not in dispute that the Government of Haryana has notified Special Courts and that the combined jurisdiction of those courts covers the entire State of Haryana. Once that is so, obviously, the Special Courts constituted under Section 153 of the Act have jurisdiction to adjudicate upon matters arising out of Sections 135 to 140 and 150 of the Act.

3. Mr. Goel, learned counsel appearing for the appellant in RSA No.4181 of 2016, on the other hand submits that in case a

notice is issued to a consumer under Section 135 of the Act, he is not debarred from approaching the Civil Court to seek redressal of his grievance, in view of the fact that jurisdiction of the Civil Court is barred under Section 145 of the Act only to the extent of action taken by the Assessing Officer under Section 126 of the Act and there is no reference to Section 135 in Section 145. He has also cited two judgments of two coordinate Benches of this Court to substantiate his submission, i.e. (i) 2014(1) PLR 184, Uttar Haryana Bijli Vitran Nigam vs Harjit Singh, and (ii) 2014(4) PLR 115, Dakshin Haryana Bijli Vitran Nigam Ltd. And others vs. Smt. Santosh Devi.

In Harjit Singhs' case (supra), it was held as follows:-

“8. A combined reading of the above said provisions of law would make it clear that the civil court jurisdiction is barred only to the limited extent i.e. for the matters arising out of any action taken under Section 126 or any order passed under Section 127 of the Act. The argument raised by learned counsel for the petitioner seems to be attractive at the first blush, however, when examined in context of the above said provisions of law, the same has been found to be felicitous, thus, liable to be rejected.

4. In Santosh Devis' case (supra), it was held as follows:-

“4. I do not find any force in the submission made by the learned counsel appearing for the appellants. Firstly, I find that Section 145 of the Electricity Act, 2003, imposes a bar on the Civil Court to entertain a suit only in respect of a matter which an Assessing Officer referred to in Section 126 or any Appellate Authority referred to in Section 127 is empowered to determine the issues. The subject assessment in the instant case had been made based on the commission of theft detected by the officials under Section 135 of the Electricity Act, 2003. For such an assessment made under Section 135 of the Electricity Act, 2003, Section 145 of the Electricity Act, 2003, which imposes a bar on the Civil Court does not have any application. Therefore, the Courts below have rightly held that the Civil Court has jurisdiction to deal with the present suit laid by the plaintiff.

5. The defendants had not led any evidence to establish the commission of theft which was the genesis for the assessment leading to imposition of penalty. Therefore, on facts the Courts below have rightly held that there was no basis for imposing penalty by the defendants.

6. I find that no substantial question of law as arisen for

determination. There is no merit in the appeal. Therefore, the appeal stands dismissed.”

x x x x”

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?”

13. Resultantly under the orders of Hon’ble the Chief Justice, the present larger Bench has been constituted, thus for rendering an answer to the hereinabove formulated substantial question of law.

Submissions on behalf of the learned counsel(s) for the appellant(s)/petitioner(s)

14. The learned counsel(s) for the appellant(s)/petitioner(s) submit-

(i) That Section 145 of the Act of 2003, provisions whereof become extracted hereinafter, imposes a bar on the exercisings of jurisdiction by the Civil Courts in certain matters. Moreover, the principle of Literal or Grammatical Interpretation but is to be applied while interpreting the provisions, as carried in Section 145 of the Act of 2003, and that the words of any enactment are to be given their ordinary and natural meaning, and, if such meaning is clear and unambiguous, thereupons the purposeful effectivity theretos is required to be assigned.

Section 145. Civil court not to have jurisdiction.- *No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an assessing officer referred to in section 126 or an appellate authority referred to in section 127 or the adjudicating officer appointed under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.”*

(ii) That the jurisdiction of Civil Courts under the Act of 2003 is barred in cases where the matter is to determined by the assessing officer under Section 126 of the Act of 2003 or by the appellate authority under Section 127 of the Act of 2003, besides where the adjudicating officer is empowered to decide the matter under the Act of 2003.

(iii) That the supra provisions only bar the Civil Court from granting injunction in those cases where the competent authority, thus acts in pursuance to the powers conferred by the Act of 2003. Therefore, it is implied that the jurisdiction of the Civil Court, rather is not barred in cases where action is not taken by the authority in pursuance of the powers conferred upon them by the Act of 2003.

(iv) That Section 145 of the Act of 2003, does not bar, the jurisdiction of the Civil Courts in cases which have to be dealt by the Special Courts under the Act of 2003. Therefore, the mere fact that the Special Courts have been constituted under Sections 153 and 154 provisions whereof become extracted hereinafter, thereby the supra provisions *per se*, do not exclude the jurisdiction of Civil Court.

“Section 153. (Constitution of Special Courts)-

(1) *The State Government may, for the purposes of providing speedy trial of offences referred to in [sections 135 to 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.*

(2) *A Special Court shall consist of a single Judge who shall be appointed by the State Government with the concurrence of the High*

Court.

(3) A person shall not be qualified for appointment as a Judge of a Special Court unless he was, immediately before such appointment, an Additional District and Sessions Judge.

(4) Where the office of the Judge of a Special Court is vacant, or such Judge is absent from the ordinary place of sitting of such Special Court, or he is incapacitated by illness or otherwise for the performance of his duties, any urgent business in the Special Court shall be disposed of –

(a) by a Judge, if any, exercising jurisdiction in the Special Court;

(b) where there is no such other Judge available, in accordance with the direction of District and Sessions Judge having jurisdiction over the ordinary place of sitting of Special Court, as notified under sub- section (1).”

“Section 154. (Procedure and power of Special Court).-

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974), every offence punishable under [sections 135 to 140 and section 150] shall be triable only by the Special Court within whose jurisdiction such offence has been committed.

(2) Where it appears to any Court in the course of any inquiry or trial that an offence punishable under sections 135 to 140 and section 150 in respect of any offence that the case is one which is triable by a Special Court constituted under this Act for the area in which such case has arisen, it shall transfer such case to such Special Court, and thereupon such case shall be tried and disposed of by such Special Court in accordance with the provisions of this Act:

Provided further that if such Special Court is of opinion that further examination, cross-examination and re-examination of any of the witnesses whose evidence has already been recorded, is required in the interest of justice, it may resummon any such witness and after such further examination, cross-examination or re-examination, if any, as it may permit, the witness shall be discharged.

(3) The Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code of Criminal Procedure, 1973, (2 of 1974), try the offence referred to in sections 135 to 140 and section 150 in a summary way in accordance with the procedure prescribed in the said Code and the provisions of sections 263 to 265 of the said Code shall, so far as may be, apply to such trial :

Provided that where in the course of a summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is undesirable to try such case in summary way, the Special Court shall recall any witness who may have been examined and proceed to re-hear the case in the manner provided

by the provisions of the said Code for the trial of such offence:

Provided further that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding five years.

(4) A Special Court may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to, any offence tender pardon to such person on condition of his making a full and true disclosure of the circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof, and any pardon so tendered shall, for the purposes of section 308 of the Code of Criminal Procedure, 1973, (2 of 1974), be deemed to have been tendered under section 307 thereof.

(5) The [Special Court shall] determine the civil liability against a consumer or a person in terms of money for theft of energy which shall not be less than an amount equivalent to two times of the tariff rate applicable for a period of twelve months preceding the date of detection of theft of energy or the exact period of theft if determined whichever is less and the amount of civil liability so determined shall be recovered as if it were a decree of civil court.

(6) In case the civil liability so determined finally by the Special Court is less than the amount deposited by the consumer or the person, the excess amount so deposited by the consumer or the person, to the Board or licensee or the concerned person, as the case may be, shall be refunded by the Board or licensee or the concerned person, as the case may be, within a fortnight from the date of communication of the order of the Special Court together with interest at the prevailing Reserve Bank of India prime lending rate for the period from the date of such deposit till the date of payment.”

(v) That the provisions of Section 135 of the Act of 2003, provisions whereof become extracted hereinafter, are criminal in nature, as the term dishonestly, as occurs in clause (1) thereof, naturally denotes that there is a requirement of mens rea to invoke the said provision.

“Section 135. (Theft of Electricity): --(1) Whoever, dishonestly,-

(a) taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee or supplier as the case may be; or

(b) tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration,

calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or

(c) damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity,

(d) uses electricity through a tampered meter; or

(e) uses electricity for the purpose other than for which the usage of electricity was authorised,

so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both:

Provided that in a case where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use -

(i) does not exceed 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times the financial gain on account of such theft of electricity;

(ii) exceeds 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months, but which may extend to five years and with fine not less than six times the financial gain on account of such theft of electricity:

Provided further that in the event of second and subsequent conviction of a person where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use exceeds 10 kilowatt, such person shall also be debarred from getting any supply of electricity for a period which shall not be less than three months but may extend to two years and shall also be debarred from getting supply of electricity for that period from any other source or generating station:

Provided also that if it is proved that any artificial means or means not authorized by the Board or licensee or supplier, as the case may be, exist for the abstraction, consumption or use of electricity by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of electricity has been dishonestly caused by such consumer.

(1A) Without prejudice to the provisions of this Act, the licensee or supplier, as the case may be, may, upon detection of such theft of electricity, immediately disconnect the supply of electricity:

Provided that only such officer of the licensee or supplier, as authorized for the purpose by the Appropriate Commission or any other officer of the licensee or supplier, as the case may be, of the rank higher than the rank so authorised shall disconnect the supply

Provided also that the licensee or supplier, as the case may be, on deposit or payment of the assessed amount or electricity charges in accordance with the provisions of this Act, shall, without prejudice to the obligation to lodge the complaint as referred to in the second proviso to this clause, restore the supply line of electricity within forty-eight hours of such deposit or payment.]

(a) enter, inspect, break open and search any place or premises in which he has reason to believe that electricity [has been or is being,] used unauthorisedly;

(b) search, seize and remove all such devices, instruments, wires and any other facilitator or article which has been, or is being, used for unauthorized use of electricity;

(c) examine or seize any books of account or documents which in his opinion shall be useful for or relevant to, any proceedings in respect of the offence under sub-section (1) and allow the person from whose custody such books of account or documents are seized to make copies thereof or take extracts therefrom in his presence.

(3) *The occupant of the place of search or any person on his behalf shall remain present during the search and a list of all things seized in the course of such search shall be prepared and delivered to such occupant or person who shall sign the list:*

Provided that no inspection, search and seizure of any domestic places or domestic premises shall be carried out between sunset and sunrise except in the presence of an adult male member occupying such premises.

(4) *The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure shall apply, as far as may be, to searches and seizure under this Act.”*

$$x \qquad x \qquad x \qquad x$$

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of 2003, vis-a-vis an offence relating to theft of electricity.

(vii) That since Section 151 of the Act of 2003, provisions whereof become extracted hereinafter rather restricts the powers of the Special Court qua adjudication of the civil rights or claims of the consumers. Therefore, the Special Courts constituted under Section 153 of the Act of 2003, can only be moved at the instance of the department concerned or by any of the authorized officers. However, when the Special Courts, rather cannot be moved at the instance of the consumers, thus for the adjudication of their civil claims, which may arise from the invokings of the provisions embodied in Sections 135 to 150 of the Act of 2003. Consequently, the consumers have every right to approach the Civil Courts, rather for the redressal of their civil claims.

“151. Cognizance of offences.–

No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by the Appropriate Government or Appropriate Commission or any of their officer authorised by them or a Chief Electrical Inspector or an Electrical Inspector or licensee or the generating company, as the case may be, for this purpose.

Provided that the court may also take cognizance of an offence punishable under this Act upon a report of a police officer filed under section 173 of the Code of Criminal Procedure, 1973 (2 of 1974):

Provided further that a special court constituted under section 153 shall be competent to take cognizance of an offence without the accused being committed to it for trial.”

(viii) That the non obstante clause, as become embodied in Section 154(1) of the Act of 2003, implies that only the provisions of the Cr.P.C., rather becoming excluded. However, no obstante clause appears to exclude the provisions of the Code of Civil Procedure.

(ix) That since the consumer does not have any remedy for redressal of his/her civil claim, on invocation becoming made, vis-a-vis the provisions embodied in Sections 135 to 140 in and Section 150 of the Act of 2003, therefore the Civil Courts would have the jurisdiction to adjudicate upon the appositely raised civil claims, by the consumers. Moreover, since no alternate remedy has been created under the Act of 2003 rather for redressal of the grievance of the consumer(s), thereby the jurisdiction of the Civil Courts but cannot be said to be even impliedly barred.

(x) That the power invested in the Special Court under Section 154(5) of the Act of 2003, though does empower the Special Court to determine civil liabilities but the said invested adjudicatory jurisdiction is only restricted to determination of compensation, thus for the loss or damage, rather caused to the department concerned, by the errant consumer concerned. However, the said power does not yet confer any effective adjudicatory jurisdiction, upon a Special Court qua the claims for damages reared by the consumers, as arise from any purported mis-invocation of the provisions embodied under Sections 135 to 140 and under Section 150 of the Act of 2003.

(xi) That since as per Section 9 of the Code of Civil Procedure, provisions whereof become extracted hereinafter, the Civil Courts, thus have the jurisdiction to try all the suits of a civil nature, unless the assumption of cognizance over such suits, rather is expressly or impliedly barred. Therefore, when there is no statutory remedy to the aggrieved consumer rather from invocation being made to the supra provision. Or in other words, when there is no jurisdiction vested in the Special Courts to try a civil claim raised before it by the aggrieved

consumer. Resultantly, when there is no statutory remedy created under the Act of 2003, vis-a-vis the consumers, nor when there is any express or implied ouster of the jurisdiction of the Civil Courts. As such, the apposite remedy to the aggrieved consumer is to file a civil suit before the Civil Court of competent jurisdiction.

“9. Courts to try all civil suits unless barred .-

The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.”

Judgments where jurisdiction became conferred upon Civil Courts under
Section 135 of the Act of 2003.

15. This Court in **RSA No. 3652 of 2016** titled as ***Dakshini Haryana Bijli Vitran Nigam Ltd and others versus M/s Ganesh Floor Mills***, has made the expositions of law. The relevant paragraphs of the judgment (supra) are extracted hereinafter.

“x x x x
12. Since the principles of natural justice were violated with impunity and on repeated notes, therefore the Civil court has got all the jurisdiction to interfere in the matter. Secondly, when the allegations of theft were made by the defendants, the provision in terms of Sections 126 and 135 of the Act have to be discussed in terms of their applicability. Sections 126 and 135 of the Act if read together would give complete reading of the complete code covering all relevant instructions for passing an order of assessment in the cases which do not fall under Section 135 of the Act. There is mark distinction in the contents of Section 126 and Section 135 of the Act. Both are distinct and different provision, which operate in different field having no common premise in law. Theft has been defined in Section 135 of the Act which falls under part XIV relating to offences and penalties. Title of Section is 'theft of electricity'. The word 'dishonestly' appearing in the Section denotes abstract or consumption or use of electricity by dishonest means which is punishable under Section 135 of the Act. The mechanism for dealing under Section 135 of the Act is based on dishonest abstraction and consumption of energy. Section (1A) of Section 135 of the Act also

provides that without prejudice to the provisions of the Act, licensee or supplier through officer of rank as authorized may immediately disconnect the supply of energy in addition to imposition of punishment as specified in the Act and also to take other measures as given under sub-Section (2) to (4) of the said Section. The fine which may be imposed under Section 135 of the Act is directly proportional to the number of convictions and is also dependent on the extent of load abstracted.

13. *Contra to the aforesaid provisions, Section 126 of the Act would be applicable to the cases where there is no theft of energy but energy is being consumed in violation in terms and conditions of supply leading to authorized used of energy. The Assessing Officer shall provisionally assess to the best of his judgment and pass a provisional assessment order in terms of Section 126(2) of the Act. The Officer is also under legal obligation to serve a notice under Section 126(3) of the Act on the consumer, requiring him to file his objections, if any against the provisional assessment. There is a complete mechanism in terms of Section 126 of the Act. Any person served with order of provisional assessment may accept the same or deposit the amount with the licensee within seven days of service of such provisional assessment order or he may file appeal against the final order under Section 127 of the Act.*

14. *Section 126 of the Act deals with the cases of unauthorized use of energy in the absence of intention/mens rea whereas Section 135 of the Act deals with an offence of theft of energy where mens rea is the relevant factor. Therefore, both the provisions are distinct from each other. The dishonest abstraction of electricity by means of artificial methods is covered under Section 135 of the Act. The consumption of excessive load as against sanctioned load simpliciter would attract applicability in terms of Section 126 of the Act. The consumer by way of any mechanism as specified in Section 135(a) to 135(e) of the Act, if, abstracted energy with dishonest intention would fall under the category of Section 135 of the Act. The case fall under Section 135 of the Act would be amenable to the Civil Court and the case fall under the category of Section 126 of the Act would remain out of purview of jurisdiction of Civil Court. The bar of Civil Court jurisdiction is applicable where dispute fall within the purview of Section 126 of the Act. If the demand is based on an allegation of theft of energy, the issue and contemplated action do not fall under the purview of Section 126 of the Act and Civil Court has got all the jurisdiction.”*

16. In **CWP No. 14405 of 2013** titled as **Uttar Haryana Bijli Vitran Nigam versus Harjit Singh**, this Court has made the hereinafter extracted observations.

“12. The legislature, in its wisdom, has restricted the jurisdiction of

the civil court only qua the matters arising out of the actions taken by the authorities under Section 126 of the Act or any orders passed by an appellate authority under Section 127 of the Act and the connected matters covered thereunder. Since in the present case, impugned action has been admittedly taken by the petitioner under Section 56 of the Act, there was no scope, whatsoever, of barring the jurisdiction of the civil court. Thus, the learned civil court has committed no error of law, while passing the impugned order, which deserves to be upheld for this reason, as well.”

17. Similar view have been taken by this Court in **RSA No. 3280 of 2014** titled as **Dakshin Haryana Bijli Vitran Nigam Ltd. and others versus Smt. Santosh Devi**, and in **RSA No. 3933 of 2017** titled as **Dakshin Haryana Bijli Vitran Nigam Ltd. and others versus Jaswant @ Jaibir**.

Judgments where jurisdiction became not conferred upon the Civil Courts under Section 135 of the Act of 2003.

18. This Court in **CWP No. 15438 of 2014 titled as Tower Vision India Pvt. Ltd. versus Dakshin Haryana Bijli Vitran Nigam Ltd. and others**, has made the expositions of law. The relevant paragraphs of the judgment (supra) are extracted hereinafter.

“x x x x

4. The assessment of charges for theft of energy cannot be taken to be an assessment made under Section 135. An assessment for theft of energy that partakes the character of unauthorized use is independently done under Section 126. It is the source of power for making an evaluation of the gain obtained by a consumer by unauthorized use. I have already observed that Section 135 defines a theft as referring to five different circumstances. They are detailed in the section as under:-

“135. Theft of Electricity:

1. Whoever, dishonestly, --

- a. taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee; or
- b. tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or
- c. damages or destroys an electric meter, apparatus,

equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with accurate metering of electricity; d. uses electricity through a tampered meter. e. uses electricity for the purpose other than for which the usage of electricity was authorized so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with or without fine both. Provided that in a case where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use.

*It shall be appropriate to see how a theft itself shall give a cause for an assessment under Section 126, which provides for assessment does not use the expression theft but it allows for an assessing officer to make a conclusion that person is indulging in unauthorized use of electricity. Unauthorized use is one of the items of theft contained under Section 135 (i) (e) extracted above. In other words, the unauthorized use is a manner of commission of theft. In **Southern Electricity Supply Co. of Orissa Ltd. Vs. Sri Seetaram Rice Mills (2012) SCC 108**, the Supreme Court pointed out for prosecution for theft under Section 135, mens rea or criminal intent is necessary, which for unauthorized use, an assessment under Section 126, no such intent is required to be proved. In this case the notice sets out that the petitioner has committed theft by supply of direct current from LT Line by wire and if such an unauthorized use is detected, an assessment which it makes must be taken as an assessment which is provisional under Section 126 (1). If the electricity Board has decided to lodge a FIR and prosecute for criminal offence, it will be required to prove criminal intent. If, for making an assessment for unauthorized use, no criminal intent need be established. It is not as if the order of assessment has become final. The notice which is issued under Annexure P-1 must be taken as a composite notice making a provisional assessment and a notice of referring to a commission of theft and for consequential action. It must be noticed that Section 135 is not a provision for prosecution. It only defines theft. Consequently if a notice is issued stating that assessment was being made for theft under Section 135, it will be wrong to assume that the assessment is made under Section 135. The assessment is possible only under Section 126 and that is how the notice must be construed. This amount of what is assessed cannot be taken as having become final, for, the section itself provides the various steps at which the assessment would ultimately grant final assessment. If Annexure P-1 notice issued on 18.11.2013 must be taken therefore as an order of provisional assessment and he was at liberty to file an objection against the provisional assessment and if such an objection is filed he would be afforded a reasonable opportunity before a final order of assessment was made*

within 30 days.

5. Under the above circumstances if a notice is issued under Annexure P-1 there is nothing inherently wrong about it. The petitioner is entitled to join issues and contend in reply that there was no theft. Disconnection is independently possible under Section 135 (1-A). The disconnection which is effected under Annexure P-1 must therefore taken as sourced to the power under a different provision. While the assessment must be taken under Section 126 (1) without filing his objection to the notice under Annexure P-1 and inviting a final assessment order to be passed, a challenge to the notice under Annexure P-1 is untenable. If the petitioner's grievance is that the petitioner did not have adequate opportunity to contest the assessment in the impugned notice, it may resort to the process indicated in Section 126, invite a final assessment and if aggrieved, prefer an appeal under Section 127. The procedure for challenge has been set forth in the decision of the Supreme Court in *W.E. SEB Vs. Syed Mukhul Hussain* (2009) 2 SCC 727.”

19. In **RSA No. 5811 of 2015** titled as **Maipal Singh versus Dakshin Haryana Bijli Vitran Nigam Ltd. and others**, this Court has made the hereinafter extracted observations.

“x x x x

On reading of provisions of Section 126 Explanation (b)(iii) of 2003 Act, unauthorized use of electricity also means the usage of electricity through a tampered meter. The allegation in the present case is that the appellant had tampered the meter. In my view, the Civil Court did not have the jurisdiction, in view of the provisions of Section 145 of 2003 Act.

No doubt, certain provisions of Section 126 of 2003 Act would be different from the cases where dishonest abstraction of electricity by means of artificial methods enlisted under Section 135 of 2003 Act and would be applicable to the cases where there is no theft of energy but energy consumed in violation of terms and conditions of supply would lead to authorised use of energy. Provisions of aforementioned sections should be read in whole and not in isolation. I have already given a judgment on this point in RSA No.2092 of 2015 titled as *M/s Gill Rice Mills vs. Punjab State Electricity Board* and another decided on 21.08.2015.

Thus, I am of the view that the judgments referred (supra) would not be applicable to the facts and circumstances of the present case as per the provision of Section 126 Explanation (b)(iii) of 2003 Act, which though have been extracted but not brought to the notice of the Court in cited judgment minutely. Had it been so, perhaps there would not have been a finding to entertain such type of dispute at this stage. I am of the view that the appellant should be

granted a liberty to approach the Special Court.

In view of the aforementioned observations, in case, the appellant opts to approach the Special Court and files a petition, the Special Court will not be influenced with the findings rendered by this Court and decide the case in accordance with law.”

20. The High Court of Delhi in **Sh. B.L.Kantroo versus BSES Rajdhani Power Ltd.**, reported in **154 (2008) DLT 56**, has made the hereinafter re-extracted observations.

“X X X X

27. No doubt [Electricity Act](#) is a complete code in itself, but in the following cases, civil suit can be entertained even though the jurisdiction of the civil court may have been specifically ousted. Where provisions of law are not complied with or the forum or tribunal does not act according to the fundamental principles of judicial procedure, the jurisdiction of civil court is clearly implied. This was laid down under the following cases:

a) "if the court is of prima facie opinion that the order is nullity in the eye of law because of any “jurisdictional error” in exercise of the power by the commissioner or that the order is outside the Act”.

b) "even if jurisdiction is so excluded, the Civil Courts have jurisdiction to examine into cases where the provisions of the Act have not been complied with, or the statutory tribunal has not acted in conformity with the fundamental principle of judicial procedure"

x x x x

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](#).

29. It is true that ordinarily, the Civil Court has jurisdiction to go into and try the disputed questions of civil nature, where the fundamental fairness of procedure has been violated. By necessary implications, the cognizance of the civil court has been excluded. As

a consequence, in the present case, the Civil Court shall not be justified in entertaining this suit and giving the declaration without directing the party to avail of the remedy provided under the Act. Therefore, by necessary implications, the appropriate competent authority should hear the parties, consider their objections and pass the reasoned order, either accepting or negating the claim. Of course, it is not like a judgment of a civil court. Civil court has no jurisdiction by necessary implication to entertain suit for declaration and injunction against specially constituted forum in view of the specific provisions found in the [Electricity Act](#). [(1997) 5 SCC 120].

30. Although there is no specific provision in Section 145 of the Act for exclusion of jurisdiction of Civil Court to entertain any proceeding in respect of any matter which the Special Court is empowered by or under the Act to determine, we are of the view that any dispute about civil liability in theft cases is impliedly excluded from the jurisdiction of civil court in view of the provisions of Section 153 and 154 of the Act wherein special court has got the jurisdiction to determine any dispute regarding the quantum of civil liability specifically in theft cases and the said court can act as civil court as well as criminal court while conducting the cases before it.”

Reconciling the divergent views expounded in the supra judgments by different Benches of this Court and by the High Court of Delhi and answer to the reference.

21. Since the instant reference appertains to the ouster of the jurisdiction of the Civil Courts, therebys first and foremost, this Court is required to be fathoming, thus from the provisions embodied in Section 145 of the Electricity Act, 2003, whether therebys the jurisdiction of the Civil Courts, as become endowed upon them under Section 9 of the Code of Civil Procedure, provisions whereof already become extracted hereinabove, rather therebys become either expressly or impliedly barred/curtailed.

22. For making an incisive and well rendered contemplated answer to the supra, it is necessary to bear in mind the fact, that a special statue either expressly or by necessary implication, thus can proceed to bar the exercisings of jurisdictions by the Civil Courts, but in respect of specifically

delineated matters. Of course, therebys only with respect to certain specifically delineated matters in the special statute concerned, thus the jurisdiction of the Civil Courts, rather naturally becomes expressly barred. As such, the said created specific bar, but can be operationalized only vis-a-vis the therein specifically delineated subject matters, and, cannot *ipso facto* become extended, thus to even cover those matters, which are not specifically delineated in the special statute. In consequence, in respect of those matters, which do not become covered in the special provisions engrafted in the special statute, in respect whereof there is an explicit ouster of exercisings of jurisdiction thereovers by the Civil Courts, thereupons rather vis-a-vis the omitted to from the apposite ousted subject matters, hence the Civil Courts can proceed to exercise jurisdiction, but reiteratedly only over such non-ousted matters.

23. Moreover, in other words, even if a special statute confers only in respect of specifically delineated subject matters, thus an effective adjudicatory jurisdiction, but upon a special statutorily created mechanism, and, concomitantly bars the exercisings thereovers of adjudicatory jurisdiction by the Civil Courts concerned. Nonetheless, yet if the said conferment of adjudicatory jurisdiction but is expressly limited or restricted to certain matters, therebys in respect of those matters, which do not become explicitly delineated in the apposite specific jurisdiction ousting provisions embodied in a special statute, wherebys the exercisings of adjudicatory jurisdiction thereovers by the Civil Courts, thus becomes explicitly barred. Resultantly, vis-a-vis only those matters in respect whereof a specific statutory bar becomes created against the exercisings of adjudicatory jurisdiction by the Civil Courts, that the said explicit statutory bar becomes

fully awakened. However, in respect of those matters, which do not find explicit mention in the apposite ousting statutory provisions. As such, in respect of such omitted matters, rather in the apposite ousting statutory provisions, that there is yet preservation of exercisings of adjudicatory jurisdiction by the Civil Courts.

24. Since, the Act of 2003 is a special enactment, thus for curbing the menace of theft of electricity, besides for curbing the menace of mis-user of the sanctioned meter load by the consumer. Naturally therebys, the said special statute, if carries the supra provision(s), wherebys become respectively constituted specific remedies to the consumers, and, to the suppliers concerned, therebys the thereunder(s) created specific remedies to the concerned, but are to be assigned the requisite over whelming effect. Resultantly therebys, there would be a concomitant ouster of adjudicatory jurisdiction of the Civil Courts concerned.

25. Consequently, the relevant ousting provisions or those ousting provisions, in the instant special statute, namely the Act of 2003, which thus oust the adjudicatory jurisdiction of the Civil Courts, would prevail to the extent of the subject matters, as become expressedly detailed therein. If such subject matters are to be decided by the specially created statutory bodies, envisaged in the Act of 2003, thereupons over the apposite subject matters, rather the Civil Courts but naturally become disabled to exercise effective adjudicatory jurisdiction.

26. The said apposite ousting provisions are engrafted in Section 145 of the Act of 2003, provisions whereof are re-extracted hereinafter.

Section 145. Civil court not to have jurisdiction.- No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an assessing officer referred to in section 126

or an appellate authority referred to in section 127 or the adjudicating officer appointed under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.”

27. A deep reading of the said provisions makes trite underscorings, that it becomes compartmentalized into different segments.

28. (I) The initial segment thereof commences, from the speakings as made therein, whereby there is an ouster of exercisings of adjudicatory jurisdiction by the Civil Courts, over any suit or proceeding arising from invocation of the mandates embodied in Section 126 of the Act of 2003.

(II) The second segment thereof, whereby also there is ouster of adjudicatory jurisdiction of the Civil Courts, relates to the said ouster appertaining to the invocation(s) of the mandate embodied in Section 127 of the Act of 2003.

(III) Moreover, the third segment thereof, appertains to therebys there being also an ouster qua exercisings of adjudicatory jurisdiction over a civil suit or civil proceeding, thus by the Civil Courts, but vis-a-vis the making of adjudication by the adjudicating officer appointed under the Act of 2003.

(IV) However, lastly since all the above spoken three segments, which occur in Section 145 of the Act of 2003, but end with the word ‘and’ and subsequent thereto, there is a prohibition against the granting of injunction by any Civil Court or other authority in respect of “any action taken or to be taken in pursuance to any power conferred by or under this Act”. As such, the said ‘and’ which separates the preceding therewith above alluded to three segments, but naturally has to be assigned its effective,

purposeful and impactful interpretation, as its introduction therein, is but with a profound legislative intent.

29. The coinage 'and' which separates the prior thereto above three spoken segments, does prohibit the learned Civil Courts, to grant injunction in respect of any action taken or to be taken in pursuance to any power conferred under the Act of 2003. Conspicuously, the sweep of the plain speaking interdictory phraseology, as becomes echoed therein, inasmuch as, with speakings therein, which graphically display qua '*no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act*' but naturally is to be assigned the fullest statutory vigour. Therefore, and, more especially, the supra echoing(s), as made therein, whereby there becomes cast a statutory prohibition against the Civil Courts, thus for granting injunction(s), rather is expansive in genre to the extent, that thereby the Civil Courts concerned, become restrained from undertaking proceedings qua the already taken statutory actions, and, also become restrained from making any prohibitory injunction upon the authorities designated in the Act of 2003, thus against the latter initiating proposal(s) to take any action in pursuance to the powers conferred upon them under the Act of 2003.

30. In sequel, and, more pointedly, the words used therein '*in respect of any action taken*', and, which becomes succeeded by '*or*', whereafter the coinage '*to be taken in pursuance of any power conferred by or under this Act*', thus thereby makes the word '*or*' to be readable as '*and*', whereby not only the actions taken, rather cannot become restrained from being so taken, either through an interim order or a final decree in the said regard becoming passed by the Civil Court(s), but also the proposed to be

taken actions by the designated authorities, also cannot be restrained from being so proposed to be taken or initiated, thus through either an interim order becoming passed by the Civil Court(s) concerned, or through a final decree in the said regard becoming passed by the Civil Court(s) concerned, through the exercisings of jurisdiction in terms of Section 9 of the Code of Civil Procedure.

31. Therefore, the sweep, and, plenitude of Section 145, thus in the spoken thereins manner, naturally completely ousts the jurisdiction of the Civil Courts. The said ouster, as becomes gathered by this Court, through the makings of an insightful interpretation of the supra phrases, which occur thereins, but is a specific ouster, leaving no room at all for any inference qua any implied ousters becoming created. Though, the said ouster, as occurs in the initial segment but relates to certain matters specifically delineated thereins, but since the last segment, as carried thereins, is separately engrafted thereins, as the word 'and' separates the last segment from the prior thereto three segments. Resultantly, the sweep of the last segment but takes within its ambit, sweep or clout, thus all those matters, which remain unspoken in the prior thereto segments.

32. Naturally therebys, in terms of the supra purposive interpretation assigned by this Court to the last segment of Section 145 of the Act of 2003, therebys all actions taken or proposed to be taken by any authority, thus in pursuance to powers conferred by or under this Act, rather cover all such matters, which are detailed in extenso in the Act of 2003. In sequel therebys but naturally all the actionable matters become amenable for exercisings of jurisdiction thereovers by the statutorily created special authorities/special bodies, wherebys in respect thereof, thus there is

complete ouster of adjudicatory jurisdiction by the Civil Courts concerned.

33. In consequence, there is no restriction, as such created by Section 145 of the Act of 2003, vis-a-vis only the three segments (supra) which occur therein, but the ouster of adjudicatory jurisdiction of the Civil Courts, rather through the last segment which occurs therein, but does cover all the subject matters, in respect whereof action becomes initiated, or where actions are proposed to be contemplated against the errant concerned. In summa, thereby not only in respect of Section 126 and Section 127 of the Act of 2003 but also in respect of the matters falling within the ambit of Section 135 of the Act of 2003, there is complete ouster of jurisdiction of the Civil Courts.

34. Now, the further ire point which requires to become dilated upon, besides requires becoming adjudicated upon, thus appertains to the provisions which become engrafted in Section 154 of the Act of 2003. Though, sub-Section (1) thereof, ousts the applicability of the provisions engrafted in the Code of Criminal Procedure, but the said ouster, thus has led to the creation of Special Courts. The Special Courts become foisted with adjudicatory jurisdiction, thus in respect the statutory subjects, which find mention in Sections 135 to 140 of the Act of 2003, and, which also find mention in Section 150 of the Act of 2003. The thereunders foisted exerciseable adjudicatory jurisdiction, vis-a-vis the Special Court, though is confined to the statutory subjects, which become delineated in Sections 135 to 140, and, in Section 150 of the Act of 2003. Therefore, the statutory subjects which find mention in Section 126 of the Act of 2003, do fall outside the scope of any apt exercisings of adjudicatory jurisdiction thereovers by the Special Court concerned. Moreover also, qua the statutory

subjects delineated in Section 145 of the Act of 2003, thus the exercisings thereovers of adjudicatory jurisdiction by the Civil Courts, but also does naturally become statutorily ousted.

35. Be that as it may, though Section 154 of the Act of 2003, though vis-a-vis the exercisings of adjudicatory jurisdiction qua the statutory subject matters, which find enclosed in Sections 135 to 140 and in Section 150 of the Act of 2003, thus confers adjudicatory jurisdiction, upon, the statutorily designated Special Courts. However, the said conferment of jurisdiction, but extends to imposing punishment in the manner, and, to the extent as becomes mentioned in sub-Sections (3) and (4) of the Act of 154. Therefore, the subject matters which become enclosed in the supra Section detailed in the Act of 2003, thus are statutorily made amenable for assumption of cognizance thereovers, besides for exercisings of adjudicatory jurisdiction thereovers. In addition, though there is a statutorily endowed competence in the Special Court, to function as a Court of Session, as the said conferred power upon a Special Court, but is alike to the power invested in a Court of Session. Significantly so, as the said factum emerges from the mandate, which occurs in Section 155 of the Act of 2003.

36. Now the ouster of the provisions of the Code of Criminal Procedure through a non obstante clause, which occurs in sub-Section (1) of Section 154 of the Act of 2003, though *prima facie* restrains the police agencies to make investigations in respect of the statutory subject matters, detailed in the supra Sections. Therefore, there is naturally required to be existing a provision in the Act of 2003, whereby there is conferment of powers of investigation upon the designated therein authority. Moreover, the said conferment is dual in nature, inasmuch as, it confers upon the Special

Court, thus the jurisdiction to punish the errant, besides through sub-Section (5) of Section 154 of the Act of 2003, there is also conferment of adjudicatory jurisdiction upon the Special Court, thus to award damages to the supplier.

37. However, the determination of the civil liability is naturally to be made rather post the makings of a conclusive and binding verdict of conviction against the errant concerned, as both the civil and criminal jurisdictions, but cannot work together.

38. The provisions relating to investigations and assessment are embodied in Section 126 of the Act of 2003, provisions whereof become extracted hereinafter.

“126. Assessment.–

(1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorised use of electricity, he shall provisionally assess to the best of his judgment the electricity charges payable by such person or by any other person benefited by such use.

(2) The order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed.

(3) The person, on whom an order has been served under sub-section (2), shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who shall, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment within thirty days from the date of service of such order of provisional assessment, of the electricity charges payable by such person.

(4) Any person served with the order of provisional assessment may, accept such assessment and deposit the assessed amount with the licensee within seven days of service of such provisional assessment order upon him:

(5) If the assessing officer reaches to the conclusion that unauthorised use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorised use of

electricity has taken place and if, however, the period during which such unauthorised use of electricity has taken place cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.(6) The assessment under this section shall be made at a rate equal to twice the tariff rates applicable for the relevant category of services specified in sub-section (5).”

39. Though, there is an ouster of the provisions of the Cr.P.C. but the said ouster does not restrict the investigating officers concerned, working in the police stations concerned, to investigate into the offences, which are to be tried by the Special Courts. The conferment of the said powers of investigations upon the investigating officers, who are serving in the police stations concerned, thus stems from the mandate enclosed in Section 151-A of the Act of 2003. Therefore, to the said extent, there is preservation of investigating jurisdiction, vis-a-vis the investigating officers concerned, who serve in the police stations concerned. Also but as a natural corollary thereto, the reports prepared under Section 173 Cr.P.C., are to be filed before the Special Courts, as become created through the mandate enclosed in Section 153 of the Act of 2003.

40. Be that as it may, the trial, which has to be entered into by the Special Courts, thus in respect of the appositely triable offences, which become so detailed in the charge sheet to be filed by the investigating officer(s) concerned, but naturally in terms of Section 173 of the Cr.P.C., rather is a summary trial.

41. Nonetheless, even the said embarking(s) of a summary trial against the errant concerned, does require the assigning of an opportunity to the accused to make effective cross-examination(s) upon the prosecution witnesses concerned, as thereby the right to fair trial, as becomes envisaged

in Article 21 of the Constitution of India, thus would become fully activated.

42. Now since sub-Sections (5) and (6), as embodied in Section 154 of the Act of 2003, provisions whereof become re-extracted hereinafter, do confer jurisdiction upon a Special Court also to determine the civil liability of the errant concerned, whereafter compensation can also be settled against the errant concerned.

“x x x x

(5) *The [Special Court shall] determine the civil liability against a consumer or a person in terms of money for theft of energy which shall not be less than an amount equivalent to two times of the tariff rate applicable for a period of twelve months preceding the date of detection of theft of energy or the exact period of theft if determined whichever is less and the amount of civil liability so determined shall be recovered as if it were a decree of civil court.*

(6) *In case the civil liability so determined finally by the Special Court is less than the amount deposited by the consumer or the person, the excess amount so deposited by the consumer or the person, to the Board or licensee or the concerned person, as the case may be, shall be refunded by the Board or licensee or the concerned person, as the case may be, within a fortnight from the date of communication of the order of the Special Court together with interest at the prevailing Reserve Bank of India prime lending rate for the period from the date of such deposit till the date of payment.”*

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.

45. However, since the Special Court(s) has been declared by Section 155 of the Act of 2003 to be a Court of Session, besides when there is also an empowerment vested, thus through the mandate enclosed in sub-Section (5) of Section 154 of the Act of 2003, in the Special Court, to determine the civil liability, vis-a-vis the consumer concerned, therebys it would be more appropriate that a provision becomes engrafted in the Act of 2003, so that, when the Special Court, thus proceeds to determine the civil liability of the errant concerned, therebys the determination of the apposite civil liability, rather than being so determined by the Court of Session, which exclusively tries an offender, qua the said civil liability, being determined by the District Judge concerned. The said anomaly also fortifies the above assigned reason by this Court, that only post the conclusive determination of criminal liability by the Special Court, that the civil liability is to be determined vis-a-vis the errant consumer concerned. Obviously, an amendment in the said regard is required to be made in the Act of 2003.

46. Moreover, the non obstante clause, whereby becomes ousted the provisions, as embodied in the Cr.P.C., excepting to the extent of investigations in respect of offences made punishable under the Act of 2003, thus being conducted by the investigating officers concerned, who become stationed at the police stations concerned. However, since now the former Cr.P.C. has been replaced by *Bharatiya Nagarik Suraksha Sanhita* (for short ‘BNSS’), therefore, a compatible thereto amendment is required to be made to sub-Section (1), whereby there is an introduction therein vis-a-vis the apposite provisions of BNSS.

47. All the supra amendments be considered to be most expeditiously passed by the State Legislature concerned, as thereby the supra anomalies would become erased.

48. Since the makings of composition(s) of an offence in terms of Section 152 of the Act of 2003, would also tantamount to acceptance of the guilt by the errant consumer concerned, thereby post the making of an order of composition, if the compounding fee, does not also cover the apposite civil liability, thereupon in terms of sub-Section (5) of Section 154 of the Act of 2003, thus the Court concerned may proceed to determine the civil liability against the errant consumer concerned.

49. The utmost burning issue relates to the fact, that when sub-Section (5) of Section 154 of the Act of 2003, speaks about determination of civil liability against the consumer or a person, as arises from theft of electricity. Moreover when the apposite explanation, which occurs at the end of Section 154 of the Act of 2003, explanation whereof becomes extracted hereinafter, makes expressions about the phrase ‘civil liability’, thus obviously connoting loss or damage incurred by the Boad or licensee or

the concerned person.

“x x x x

Explanation.—For the purposes of this section, “civil liability” means loss or damage incurred by the Board or licensee or the concerned person, as the case may be, due to the commission of an offence referred to in sections 135 to 140 and section 150.”

50. Though prima facie therebys, the phrase ‘concerned person’ may imply, that the conferment of jurisdiction in terms of sub-Sections (5) and (6) of Section 154 of the Act of 2003, also encompasses therein, thus a remedy to the consumer, to post a conclusive and binding verdict of acquittal becoming rendered in respect of a charge relating to the offence of theft of electricity, to thus recourse the remedy as envisaged therein.

51. However, to the considered and objective contemplation of this Court, the concerned person, does not cover a consumer of electricity, nor does it cover the aspect relating to the consumer, upon the latter becoming clinchingly and provenly acquitted of the charge relating to theft of electricity, thus nourishing a claim in terms of sub-Section (5) of Section 154 of the Act of 2003.

52. The reason for stating so generates from the factum, that the opening sentence of sub-Section (5) of Section 154 of the Act of 2003, speaks about the determination of civil liability by the Special Court, **but against the consumer or a person**. Therefore, if in the explanation, which occurs at the end of Section 154 of the Act of 2003, there occurs the expression ‘**concerned person**’, whereby the apposite determination of civil liability, does prima facie connote, qua the concerned person, **rather may also being the consumer**. Nonetheless, if the intent of the legislature was so, then under the jurisdiction foisting provision, vis-a-vis the Special Courts, inasmuch as, in sub-Section (5) of Section 154 of the Act 2003, thus

apart from speakings made therein, that against a consumer, both the civil and criminal action being ably contemplated to become initiated, there was but also a requirement of ‘concerned person’ being specifically included therein. Since the foisting of jurisdiction upon the Special Court, to determine civil liability is not only against a consumer, but is also against “a person”, thereby the intent of the legislation, irrespective of the explanation carrying the phrase ‘concerned person’, whereby the apposite germination of civil liability does *prima facie* takes within its ambit, thus the consumer of electricity, rather the **concerned person** is neither the consumer, nor also any person, which is expressed in sub-Section (5) of Section 154 of the Act of 2003, thus becomes the consumer. Contrarily, any person, as expressed in the supra sub-Section (5), rather is referable either to any corporate entity, thus private or public. Moreover, concomitantly thereby, the word ‘concerned person’ means the supplier, who has been endowed permission to supply electricity. Reiteratedly thereby, the consumer of the electricity is left remediless.

53. The further effect of the above interpretation, is that, there is no remedy to the accused, to post the making of a binding and clinching verdict of acquittal, thus by the Special Court concerned, to thereupon subsequently claim damages for malicious prosecution. As such, in respect of the claim of malicious prosecution, a suit in the said regard can be laid before the Civil Court of competent jurisdiction.

54. Last but not the least, even if this Court has concluded, that the jurisdiction of the Civil Court is, thus barred through the occurrence of Section 145 of the Act of 2003, but yet in respect of the first three segments, which become alluded to hereinabove, there is yet vestment of jurisdiction

qua a Writ Court, to thus determine the validity of passing of the apposite orders. The reason for stating so, is that, the jurisdiction of the High Courts to issue writs of various genres, is a constitutionally invested power, and, the said power is an insegregable component of judicial review of administrative actions, or of the *quasi judicial* actions, besides is the basic structure of the constitution. As such, the power of judicial review, a becomes invested in the High Courts, rather cannot be snatched even through the occurrence of Section 145 in the Act of 2003.

Final order

55. In view of the supra observations, the reference stands answered accordingly.

56. This Court appreciates the profound wisdom and enriched legal assistance provided by Mr. B.R.Mahajan, Senior Advocate (former Advocate General, Haryana), Mr. Pravindra Singh Chauhan, Advocate General, Haryana, Mr. Ankur Mittal, Additional Advocate General, Haryana, Ms. Svaneel Jaswal, Additional Advocate General, Haryana, Mr. Pardeep Prakash Chahar, Sr. Deputy Advocate General, Haryana, all the learned counsels for the appellants/petitioners, and, Mr. Sangam Garg, (Law Researcher) attached with this Court.

56. A photocopy of this order be placed on the file of another connected cases.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

May 14th, 2025
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No