

IN THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR

CIVIL REVISION No. 227 of 2007

SINGLE BENCH: JUSTICE A.K. SHRIVASTAVA

Applicant : M.P. Madhya Kshetra Vidyut
Vitran Co. Ltd., Bhopal (North)
through its Assistant Engineer,
Imami Gate, Bhopal (M.P.)

Versus

Respondents : 1. Dr. Aisha Shariq Ali,
W/o Dr. Shariq Ali,
R/o C-52, Housing Board Colony,
Koh-e-fiza, Bhopal (M.P.)

2. Brij Gopal Saxena,
S/o Shri Gopal Saxena,
Through the transferee of House

Applicant by - Shri Anoop Nair, Advocate

Respondents by - None though served

ORDER
(13/02/2013)

Feeling aggrieved by the order dated 19.5.2007 whereby the application under Order 7 Rule 11 CPC of the applicant has been rejected holding that civil suit is maintainable.

2. The contention of learned counsel for the applicant is that there is a clear bar under Section 145 of the Indian Electricity Act, 2003 (for short, the Electricity Act) and, therefore, if the plaintiffs were aggrieved by additional bill of ₹1,15,095/-, it can be challenged under Section 127 of the Electricity Act by filing an appeal before the statutory forum. However, without paying heed to

the aforesaid provisions, it has been held by learned Trial Court that civil suit is maintainable.

3. Considered the aforesaid submissions.

4. From the record as well as from the impugned order it is gathered that there are two plaintiffs, one is Dr. Aisha Shariq Ali and another is Dr. Brij Gopal Saxena. Since both the plaintiffs belong to different communities and particularly when the averment in the plaint is that without issuing any notice, against the principles of natural justice and for want of jurisdiction as well, the additional electricity bill of ₹1,15,095/- has been issued to the plaintiffs, therefore, at the threshold it cannot be said that suit is *ex facie* barred looking to the facts and circumstances of the case. Thus, according to me, the evidence is required to be led in this regard. Hence, I am of the view that if such an objection is raised in the written-statement by the defendant-applicant, necessary issues in that regard be framed and said issues may be decided in accordance with law. However, at present, the impugned order cannot be allowed to remain stand, same is hereby set aside with a rider that whether suit is maintainable or not, it be decided after recording the evidence at the time of final adjudication.

5. With the aforesaid observations, this revision application is allowed in part. The impugned order is set aside.

(A.K. Shrivastava)
Judge

rao