

CRR-1264-2010

(MADHYA PRADESH RAJYA VIDYUT MANDAL (M.P.P.K.V.V. CO. LTD.) Vs BALRAM)

13-04-2017

Shri O.P. Mishra, learned counsel for the petitioner.

None for the respondent.

This revision petition has been filed against the order passed by the Special Judge, Sagar. The main contention of the revision petitioner is that the trial court has held the respondent guilty for theft of electricity, however, the trial court has not calculated the civil liability of the respondent in accordance with Section 154(5) of the Electricity Act and the trial court applied the principle of Section 126 sub section 5 and 6 of the Electricity Act in calculating the civil liability which is illegal.

I have perused the record. The provision of Section 126 of Electricity Act is in regard to assessment of electricity on an inspection of any place or premises if the assessing officer comes to the conclusion that such person is indulging in unauthorised use of electricity, the officer shall provisionally assess to the best of his judgment the electricity charges payable by such person. Section 135 is a part of Chapter XIV of the Electricity Act 2013. Section 135 is in regard to theft of electricity which reads 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 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; or

(d) uses electricity through a tampered meter; or

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

Section 154(5) of Electricity Act prescribes procedure and power of Special Judge to determine civil liability against a consumer or a person in terms of money for theft of energy. The aforesaid section reads as under:-

"(5) The 2[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."

Section 154(5) of the Electricity Act prescribes procedure for determining civil liability against a consumer if he found guilty of committing theft of electricity.

In the present case, the trial court has held the respondent guilty of theft of electricity and he was using the electricity for floor mill.

In such circumstances, in my opinion, it is obligatory on the part of the trial court to determine liability in accordance with provision of Section 154(5) of the Electricity Act, 2003.

Consequently, the order passed by the Special Judge is hereby set-aside upto the extent of fixing civil liability and the case is remanded back to the Court to fix the civil liability of the respondent in accordance with law.

Certified copy as per rules.

(S.K. GANGELE)
JUDGE

MISHRA