



CNR No. : MHPA010012412022				
Presented on	:	26/04/2022		
Registered on	:	27/04/2022		
Decided on	:	24/09/2025		
Duration:	:	YY 03	MM 04	DD 28
Exhibit No. 13				

IN THE COURT OF DISTRICT JUDGE, AT PARBHANI.
(Presided over by Ms. U. M. Nandeshwar)

REGULAR CIVIL APPEAL No. 43/2022

	Syed Javed S/o. Syed Jani, Age: 46 years, Occu.: Service, R/o. Masoom Colony, Dargah Road, Parbhani, Tq. and Dist.Parbhani	<u>-Appellant</u> [Original Plaintiff]
: VERSUS :		
1]	Additional Executive Engineer, Maharashtra State Electricity Distribution Company Ltd., City Sub-Division, Parbhani, Tq. & Dist. Parbhani	<u>-Respondents</u> [Original Deft Nos.1 & 2]
2]	Executive Engineer, Maharashtra State Electricity Distribution Company Ltd., City Sub-Division, Parbhani, Tq. & Dist. Parbhani	
<u>Appearances :</u> Ld. Adv. Mr. S.A.Deshpande, for the appellant. Ld. Adv. Mr. A.B.Sakhre for respondents.		

J U D G M E N T

(Delivered on 24th day of September, 2025)

1] This appeal under section 96 of Civil Procedure Code, 1908, is directed against the order dated 20/04/2022 passed by the Civil Judge, Senior Division, Parbhani, in Regular Civil Suit No.87/2022 by which the application (Exh.18) under Order 7 Rule 11(d) for rejection of plaint is allowed.

2] The appellant is the original plaintiff and respondents are original defendants. [The parties will be referred as per their original nomenclature for the sake of convenience.]

3] The brief facts of the case are as under :

[i] The plaintiff is resident of Masoom Colony, Dargah Road, Parbhani. In the year 2009, he applied for new electricity which is supplied to him bearing Consumer No.530010534088. The plaintiff was paying electricity bill regularly. On 17/07/2010, 31/12/2010, 17/07/2011 and 19/01/2012, the plaintiff filed applications for replacing the meter as incorrect bills were issued to him without taking meter reading, however, no action was taken on his application.

[ii] As per the plaintiff on 18/08/2017 he again filed application for changing meter and thereafter as per order of defendant spot inspection was carried out by

Mr.Bansode- Lineman, however no further action was taken. The plaintiff again gave application on 09/01/2020 on which the action was taken. On 30/09/2021 on the application of the plaintiff, the meter has been changed. However, on 13/10/2021 the testing report was given with remark that the meter is not showing reading and there is discrepancy between number and the name.

[iii] The plaintiff averred that in the month of October-2021 and November-2021 the defendant issued assessment bill of ₹.3,50,600/- along with compounding charges of ₹.10,000/- and pressurize the plaintiff to pay the amount and threatened to disconnect the electricity, if bill is not paid. No action was taken on the application of the plaintiff dated 18/12/2021 for correction of error, but the plaintiff has filed the Consumer Complaint bearing No.136/2021 before the Hon'ble District Consumer Dispute Redressal Commission, Parbhani, however, said complaint was rejected for want of jurisdiction. The defendant issued electricity bill without following due process of law U/Sec.126 and 127 of the Electricity Act and therefore, there is no question of filing an appeal. The plaintiff's sons are taking education of Engineering and in 10th standard and plaintiff himself is pursuing Ph.D. The plaintiff states that if electricity supply is disconnected then, the plaintiff would suffer loss, therefore, he filed the suit for perpetual injunction for directing the defendant not to disconnect the

electricity supply in respect of Consumer No. 530010534088 without adopting due procedure of law.

[iv] The **defendants** by filing say/written statement at Exh.16 resisted the claim denying all the adverse allegations. The defendants admitted that the plaintiff's meter was changed on 30/09/2021. The defendants did not dispute that Assistant Engineer had given testing report on 13/10/2021. It is specific defence of the defendants that the special team including Deputy Engineer, Circle Office, Parbhani along with two Technician is there for inspection of meter of such consumer whose consumption is found low. The team visited premises of the plaintiff and on inspection of the meter with machine of Accu-check it was found that meter is running slow and accordingly submitted report. Thereafter, new meter was installed for testing. Old meter of the plaintiff tested and it was found that seal of meter was broken and the display is off and accordingly, meter testing report was issued by Assistant Engineer. On 13/10/2021 as per the meter testing report the plaintiff found indulged in the theft of electricity by tampering meter by breaking its seal and found committed offence of unauthorized use of electricity by tampering meter and committed an offence under Section 135 of the Electricity Act, 2003. In view of that the civil Court has no jurisdiction as per Section 145 of the Electricity Act, 2003 and prayed for dismissal of the suit with compensatory costs.

4] The defendants also filed separate application under **Order VII, Rule 11(d) read with Section 151 of the C.P.C.** below Exh.18 raising objection of jurisdiction in view of specific bar to institute the civil suit in view of provision of Section 145 of the Electricity Act. The plaintiff by filing say resisted the application and prayed for rejection of the application.

5] Ld. Trial Court after hearing both the sides, by order dated 20/04/2022 allowed the application (Exh.18) filed by the defendant and plaint is rejected under Order VII Rule 11(d) of the CPC. The said order dated 20/04/2022 is challenged by this appeal.

6] Heard Ld. Adv. Mr. S.A.Deshpande, for appellant and Adv. Mr. A.B.Sakhre for respondents.

7] Upon hearing and perusal of Record and Proceeding, following points arise for my determination and I have recorded my findings thereon as under :-

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1]	Whether civil suit is barred in view of provision of section 145 of the Electricity Act, 2003?	..In the affirmative.
2]	Whether said impugned order requiring interference, at the hands of this court in appeal?	..In the negative.
3]	What order ?	..As per final order.

REASONS

As to Point No.1:

8] The plaintiff filed the suit with specific averment that he is consumer of defendants since the year 2009 having electricity meter bearing Consumer No. 530010534088. As per the plaintiff for incorrect meter reading he gave several application to the defendants on 17/07/2010, 31/12/2010, 17/07/2011 and 19/01/2012 and on 18/01/2017, however, no action was taken. Thereafter, on 30/09/2021 the meter has been changed. As per the plaintiff the meter testing report dated 13/10/2021 does not show the meter of the plaintiff and there was discrepancy in between number and name and therefore assessment bill of ₹.3,50,600/- issued along with compounding charges of ₹.10,000/- and received him on 25/02/2022 is not correct. The plaintiff put grievance of said bill by filing application dated 18/12/2021, however, no action was taken. Therefore, the plaintiff by suit prayed for perpetual injunction against the defendants.

9] Undisputedly, the plaintiff is consumer of the defendant having electricity meter vide Consumer No.530010534088. Even the plaintiff filed consumer complaint bearing C.C. No.136/2021 before District Consumer Disputes Redressal Commission, Parbhani which is rejected for want of jurisdiction. It is plaintiff's grievance

that due process of law as provided under Section 126 of the Electricity Act, 2003 was not followed and therefore, he did not prefer an appeal under Section 127 of the said Act. Thus, from averment of the plaint it reveals that plaintiff is well aware about the provisions of specific Act governing supply of electricity.

10] In order to decide controversy relevant provisions of **the Electricity Act, 2003** are restated as under;

Section 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 applicable for the relevant category of services specified in sub-section (5).

Explanation.—For the purposes of this section, —

(a) “assessing officer” means an officer of a State Government or Board or licensee, as the case may be, designated as such by the State Government;

(b) “unauthorised use of electricity” means the usage of electricity—

(i) by any artificial means; or

(ii) by a means not authorised by the concerned person or authority or licensee; or

(iii) through a tampered meter; or

(iv) for the purpose other than for which the usage of electricity was authorised; or

(v) for the premises or areas other than those for which the supply of electricity was authorised.

Section 127 - Appeal to Appellate Authority:—

(1) Any person aggrieved by the final order made under section 126 may, within thirty days of the said order, prefer an appeal in such form, verified in such manner and be accompanied by such fee as may be specified by the State Commission, to an appellate authority as may be prescribed.

(2) No appeal against an order of assessment under sub-section (1) shall be entertained unless an amount equal to half of the assessed amount is deposited in cash or by way of bank draft with the licensee and documentary evidence of such deposit has been enclosed along with the appeal.

(3) The appellate authority referred to in sub-section (1) shall dispose of the appeal after hearing the parties and pass appropriate order and send copy of the order to the assessing officer and the appellant.

(4) The order of the appellate authority referred to in sub-section (1) passed under sub-section (3) shall be final.

(5) No appeal shall lie to the appellate authority referred to in sub-section (1) against the final order made with the consent of the parties.

(6) When a person defaults in making payment of assessed amount, he, in addition to the assessed amount shall be liable to pay, on the expiry of thirty days from the date of order of assessment, an amount of interest at the rate of sixteen percent per annum compounded every six months.

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.

11] Thus, provision of Section 145 of the Electricity Act, 2003 created specific bar for filing suit in connection with the matter covered under the Electricity Act, 2003. In respect of the assessment under Section 126 of the Electricity Act, the appeal provided under provision of Section 127 of the Electricity Act. The plaintiff knowing well about said provision gave excuse that as procedure as contemplated under Section 126 of the Act was not followed, therefore, he did not avail remedy under Section 127 of the Electricity Act. In fact provision of Section 127 is provided for challenging provisional assessment of electricity bill issued under Section 126. The special statute is created to cover the matters regarding electricity. As per the defendants on testing the meter of the plaintiff, the seal was found tampered and therefore, no reading was reflected on display and accordingly, special team for inspection issued testing report dated 13/10/2021 indicating that the plaintiff has unauthorizedly used electricity by tampering the meter and thus, committed theft of electricity by tampering meter which is made punishable under Section 135 of the Electricity Act. As stated above the remedy of appeal provided under the Act

which itself is complete code and in view of specific bar U/Sec.145 of the Electricity Act the jurisdiction of civil Court is expressly barred.

12] Undisputedly, where ever there is statutory prescription excluding powers of the civil Court, then such a provision has to be interpreted strictly. Section 145 of the Electricity Act, 2003 excludes jurisdiction of the civil Court as specifically stated that the civil Courts shall not have jurisdiction in the matter where orders have been passed by the Accessing Officer referred in Section 126 of the Electricity Act, 2003 or appellate authority as mentioned in Section 127 of the Electricity Act, 2003. Thus, in view of provision of Order VII Rule 11 (d) of the Code of Civil Procedure, 1908, as specific bar is created by Section 145 of the Electricity Act, 2003, the plaint is liable to be rejected. Hence, I answer point No.1 in the affirmative.

As to Point No.2:

13] The Ld. Trial Court rightly considered the bar created by special statute i.e. the Electricity Act, 2003 and rightly rejected the plaint. Therefore, the reasoned order passed by the Ld. Trial Court does not call for any interference. Hence, I answer point No.2 in the negative.

14] In the result, I pass the following order :-

Syed Javed Vs. Addl. Exe. Engineer & Anr.	11	RCA No.43/2022 (Jud't)
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-: ORDER :-	
1]	The appeal is dismissed.
2]	Record and proceedings be send back to the Ld. Trial Court.

Place :- Parbhani. **(Ms. U.M. Nandeshwar)**
 Date :- 24/09/2025. Principal District Judge, Parbhani.
 Judge Code – MH02331.

Syed Javed Vs. Addl. Exe. Engineer & Anr.	12	RCA No.43/2022 (Jud't)
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<u>CERTIFICATE</u>		
I affirm that, the contents of this PD.F file Order are same, word to word, as per the original order.		
Name of Stenographer		S.S.Shirale, Steno
Court		Sessions Court, Parbhani
Date of order		24/09/2025
Order signed by the Presiding Officer on		24/09/2025
Order uploaded on		25/09/2025

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