

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1809 OF 2015

Prithviraj P. Bhatia

Petitioner

versus

Bombay Electricity Supply and Transport
Undertaking and another

Respondents

Mr.M.A.Khan for Petitioner.

Mr.Rakesh L. Singh i/by Ms.M.V.Kini & Co. for Respondents.

CORAM : S.C.DHARMADHIKARI AND
B.P.COLABAWALLA, JJ.

DATE : 28 October 2015

PC :

This writ petition is directed against the alleged refusal of the Respondents to withdraw a notice, a copy of which is at Annexure-A, dated 6 April 2015 and the stand taken in which is reinforced at page no.41, Annexure-K of the paper book.

2. The Petitioner claims to be a resident of Mumbai. He is carrying on business of polishing vessels from the premises mentioned in the cause title. The Petitioner claims to be the occupant and otherwise entitled to a gala/Shop No.12, Ground Floor, Plot No.19, Vakil Building, Mumbai-400 004. It is stated

that the Petitioner requested for supply of electricity at this premises. The Respondent no.1 enrolled him as a consumer and installed a meter bearing No.NMO19292 so as to measure the consumption of power in the suit premises. It is stated that this meter was installed in the meter cabin.

3. In paragraph 2.3 of the petition, it is stated that the Petitioner is also the occupant of some other business/industrial premises at Girgaum, Mumbai and there are several meters installed therein so as to measure the electricity supply to those premises. However, there was a raid by the Vigilance Department in the premises at Falkland Road, Mumbai-400 004 and the meter installed therein was found to have been tampered. A provisional claim of Rs.7,62,272/- was made. The Petitioner after removal of the meter made ad-hoc payment of Rs.3,83,636/-.

4. Then the Petitioner approached the Review Committee and the Review Committee has settled, according to the Petitioner, the claim at Rs.80,285/-. Thereafter the Petitioner repeatedly followed up the matter and sought refund of the excess amount lying with the Respondents. But he has been informed that the excess amount would be adjusted against consumption of electricity in other premises and measured in distinct accounts. Thus, the amount of Rs.3,03,351/- instead of being refunded, would be adjusted.

Thus, the Petitioner's grievance is that even after adjustment, there is excess amount which should be refunded.

5. It is this inaction of either adjustment in terms of the Review Committee order or as desired by the Petitioner and refund of excess amount, which is highlighted in this petition.

6. After hearing both the sides and perusing the petition and the annexures, we are of the firm opinion that the Petitioner was requested to approach the competent authority so that all claims could be considered and in accordance with the applicable law, rules and regulations. In the light of the decision of the Review Committee, if there are any adjustments permissible and as agreed, or whether even after such adjustment as agreed anything is due and payable to the Petitioner, are all matters which must be resolved by the Respondents and after giving a proper opportunity to the Petitioner of being heard. It is not for this Court to resolve any disputed issues and in relation to measurement of the consumption of the electricity supplied to the consumer's premises under various accounts.

7. After the matter was heard for some time, the Respondents have agreed that the Petitioner can appear before the Chief Engineer, Customer Care and the said authority shall hear the Petitioner and on perusal of the relevant records and

documents, would pass a reasoned order. The Petitioner can appear before this authority on 06 November 2015 at 10.30 a.m.

8. We keep open all contentions for being urged before the Chief Engineer, Customer Care. The writ petition is disposed of with no order as to costs.

(S.C.DHARMADHIKARI, J.)

(B.P.COLABAWALLA, J.)

MST