

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WP(C).No. 5085 of 2006 (E)

PETITIONER(S):

**C.P.MOHAMMED KUTTY, AGED 66,
S/O.SAIDALI, CHEKKINTEPURAKKAL, TANUR TOWN
TANUR, MALAPPURAM DISTRICT.**

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENT(S):

- 1. ASSISTANT ENGINEER,
ELECTRICAL SECTION, K.S.E.BOARD, TANUR
MALAPPURAM DISTRICT.**
- 2. ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL MAJOR SECTION, KERALA STATE ELECTRICITY
BOARD, TANUR, MALAPPURAM DISTRICT.**
- 3. THE DEPUTY TAHSILDAR (RR),
TANUR, MALAPPURAM DIST.**
- 4. THE VILLAGE OFFICER, TANUR.**

**R,R1,R2 BY ADV. SRI.JOSE J.MATHEIKEL, SC, KSEB
R,ADDL.5 & 6 BY ADV. SRI.DILIP MOHAN
R,ADDL.R7 BY ADV. SRI.K.T.SHYAMKUMAR
R,ADDL.R7 BY ADV. SRI.HARISH R. MENON
R,R1-2 BY ADV. SMT.P.K.RADHIKA- SC FOR KSEB**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C).NO.5085/2006

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT.

EXT.P2: COPY OF THE REVENUE RECOVERY NOTICE.

EXT.P3: COPY OF THE APPLICATION.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5085 OF 2006 (E)

Dated this the 27th day of January, 2015

J U D G M E N T

The petitioner, who is a fisherman, has approached this Court through the present writ petition challenging Exts.P1 and P2 notices that were issued to him demanding arrears of electricity charges for the period from December, 1999 to April, 2004 in an amount of Rs.32,506/- together with interests and collection charges. It is the specific case of the petitioner that, while he had owned a share in 3.5 cents of land with a house therein, along with his siblings, the petitioner and his siblings had sold the house and the land to the 7th respondent in the year 1996. It is the specific case of the petitioner that subsequent to 1996, he was never residing in the property and hence was not liable for any dues towards electricity charges in respect of electricity supplied to the said premises.

2. A statement has been filed on behalf of the 1st respondent wherein it is stated that the Board had served several notices on the petitioner for clearing the dues in respect of electricity charges from

December, 1999 onwards, and since there was no response from the petitioner, the supply was disconnected on 16.12.2001 and dismantled on 28.4.2004. It is stated that although the petitioner was served with a revenue recovery notice on 27.9.2005, he did not clear the dues of the 1st respondent Board. It is the stand of the 1st respondent that it is not aware of the transfer of the property from the petitioner to the 7th respondent and, as far as the 1st respondent Board is concerned, it is the petitioner who continues to be shown as the consumer on its files.

3. I have heard Sri.K.K.Mohammed Ravuf, the learned counsel appearing for the petitioner as also Smt.P.K.Radhika, the learned Standing counsel appearing for the respondents.

4. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I note that, although it is the contention of the respondent Board that the petitioner has been defaulting in remitting the electricity charges payable to it from December, 1999 onwards, Ext.P1 notice that is served on the petitioner is dated 31.8.2005. No other demand notice is seen produced along with the statement filed on behalf of the 1st

respondent, to substantiate its contention that there were other notices served on the petitioner for the period prior to the date of dismantling, which is shown as 28.4.2004. In that view of the matter, and considering the fact that the petitioner had sold the property in question to the 7th respondent as early as in 1996, I am of the view that the proceedings initiated through Exts.P1 and P2 cannot be continued against the petitioner. This is because the amount demanded from the petitioner pertains to a period when he was not in ownership over the property, on account of the property having been transferred in the name of the 7th respondent by a registered document No.533/1996 of SRO, Tanur. That apart, a substantial part of the demand in Ext.P1 notice pertains to a period prior to three years from the date of the said notice and hence is necessarily hit by the provisions of limitation. In that view of the matter, both on the ground of limitation as well as the fact that the petitioner was not in ownership of the premises after 1996, I quash Exts.P1 and P2 notices as against the petitioner. I make it clear that nothing in this judgment shall prevent the 1st respondent Board from initiating proceedings, in accordance with law, against the person who was in occupation of the premises, to which the electricity was supplied by the 1st respondent

Board, during the relevant period in time.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp