

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

WA.No. 1732 of 2015 () IN WP(C).19245/2015

AGAINST THE JUDGMENT DATED 26.06.2015 IN WP(C) 19245/2015 of HIGH COURT
OF KERALA

APPELLANT/PETITIONER:

C.T.SAMUEL, AGED 58 YEARS
S/O.CHERIYAN, PROPRIETOR, KANNILETH CABLE TV NET WORKS
NANGYARKULANGARA P.O.
PIN: 690 513 (RESIDING AT KANNILETH HOUSE
NADUVATTOM P.O., PALLPAD PANCHAYATH
ALAPUZHA DISTRICT)

BY ADVS.SRI.M.R.SUDHEENDRAN
SMT.A.AFREEZAA KHAN
SRI.D.N.KRISHNAN NAIR

RESPONDENTS/RESPONDENTS:

1. KERALA STATE ELECTRICITY BOARD
REPRESENTED BY ITS CHAIRMAN, KSEB, TRIVANDRUM.

2. THE DY. CHIEF ENGINEER
KSEB DIVISION OFFICE, MADAVA JN, HARIPAD - 690 514.

3. THE EXECUTIVE ENGINEER
ELECTRICAL SUB DIVISION, HARIPAD 690 514.

R BY SRI.JAICE JACOB,SC,KERALA STATE ELECTRICITY BOARD

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 06-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**P.R. RAMACHANDRA MENON
&
SUNIL THOMAS, JJ.**

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W.A. No. 1732 of 2015

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Dated, this the 6th day of August, 2015

JUDGMENT

Ramachandra Menon, J.

Grievance of the appellant is mainly with regard to the condition imposed by the learned Single Judge while disposing of the writ petition filed by him, relegating him to move the Chief Engineer of the respondent Board in respect of the demand raised to satisfy a sum of **Rs.3,,67,646/-** as per Ext.P7, for holding the coercive proceedings in abeyance, subject to satisfaction of 'half' of the demand as contained in Ext. P6.

2. The case projected by the writ petitioner/appellant is that he is running a cable TV net work under the name and style as 'Kannileth Cable TT Networks', which was actually started only in the year 2014 (after April 2014). However, without any regard to the actual facts and figures, demand notice was raised against the writ petitioner/appellant, requiring him to satisfy pole rental charges from 01.04.2011 to 31.03.2016. The writ petitioner immediately rushed to the concerned authorities and submitted Ext.P5 representation, pointing out the actual facts and circumstances. Then

a revised demand was issued as borne by Ext.P6 notice dated 26.02.2015, confining the liability only from April, 2014 and demanding a sum of Rs. 2,67,995/-. This was satisfied by the writ petitioner/appellant.

3. Quite shockingly, the writ petitioner was served with Ext.P7 demand notice dated 04.06.2015, asking him to satisfy a sum of **Rs.3,67,646/-** stating that, as per the relevant Board orders, he had to satisfy the liability from 2011 onwards . Since there was absolutely no basis for the demand, the writ petitioner approached the third respondent/Executive Engineer by submitting Ext.P8 representation, which is still to be considered. This made the petitioner to approach the learned single Judge by filing W.P. (C) No.19245 of 2015, apprehending the coercive proceedings. While disposing of the matter, the learned Single Judge observed that the matter was to be agitated before the Chief Engineer, who was the competent authority to deal with such type of disputes. It was accordingly, that the petitioner was relegated to move the Chief Engineer, simultaneously intercepting the coercive proceedings, subject to satisfaction of half of the demand, as given in Ext.P7, which in turn is sought to be intercepted in this appeal.

4. Heard the learned Standing Counsel for the K.S.E.Board as well.

5. The learned Standing Counsel submits that the petitioner had drawn cables unauthorisedly making use of the poles of the respondent Board and on verification, it was found that such mischief was being conducted right from 2011. It was accordingly, that a common Board order was issued in respect of all persons concerned. It is also stated that, since the matter was disposed of at the admission stage, relevant materials could not be brought to the notice of the Court. It is however assured that since the petitioner has been relegated to move the Chief Engineer, the matter will be examined by the Chief Engineer and appropriate orders will be passed.

6. In the above circumstance, we do not find it necessary to interfere with the judgment passed by the learned Single Judge relegating the petitioner to move the Chief Engineer by filing necessary representation, also producing copies of the relevant materials. If any such representation is filed within 'two weeks, the same shall be considered and disposed of in accordance with law, as already ordered by the learned Single Judge, at the earliest, at any rate, within two months from the date of receipt of a copy of

the judgment, after giving an opportunity of hearing to the petitioner/appellant. The condition imposed by the learned Single Judge to satisfy half of the demand raised in Ext. P7 will stand intercepted/waived and the liability of the petitioner will depend upon the outcome of the decision to be taken by the Chief Engineer in the said proceedings.

The petitioner shall produce a copy of the judgment along with copies of the writ petition and writ appeal before the competent authority/Chief Engineer for further steps.

sd/-

**P. R. RAMACHANDRA MENON,
JUDGE**

sd/-

**SUNIL THOMAS,
JUDGE**

kmd