

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

MONDAY, THE 14TH DAY OF DECEMBER 2015/23RD AGRAHAYANA, 1937

WP(C).No. 405 of 2014 (A)

PETITIONER(S)/PETITIONERS:-:

SUBA MURUGAN R., AGED 35 YEARS
W/O.MURUGAN, ALAKKAR VILLAGE, MANGALAM MURI
CHENGANNUR VILLAGE, CHENGANNUR TALUK
ALAPPUZHA DISTRICT.

BY ADV. SRI.AJITH MURALI

RESPONDENT(S)/RESPONDENTS:-:

1. THE SECRETARY,
KERALA STATE ELECTRICITY BOARD
THIRUVANANTHAPURAM - 695 001.

2. THE CHIEF ELECTRICAL INSPECTOR,
KERALA STATE ELECTRICITY BOARD
THIRUVANANTHAPURAM - 695 001.

3. THE ELECTRICAL INSPECTOR,
ELECTRICAL DIVISION, KERALA STATE ELECTRICITY BOARD
ALAPPUZHA, ALAPPUZHA DISTRICT - 688 001.

4. THE EXECUTIVE ENGINEER,
ELECTRICAL DIVISION, KERALA STATE ELECTRICITY BOARD
CHENGANNUR, ALAPPUZHA DISTRICT - 689 121.

5. THE ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL SUB DIVISION
KERALA STATE ELECTRICITY BOARD, CHENGANNUR
ALAPPUZHA DISTRICT - 689 121.

6. THE ASSISTANT ENGINEER,
ELECTRICAL SUB DIVISION
KERALA STATE ELECTRICITY BOARD, CHENGANNUR
ALAPPUZHA DISTRICT - 689 121.

R1 & 4-R6 BY ADV. SRI.JAICE JACOB,
SC,KERALA STATE ELECTRICITY BOARD
R1-R2 BY GOVERNMENT PLEADER SMT.LILLY K.T

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
14-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1. THE TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 23.04.2006.
EXHIBIT P2. THE TRUE COPY OF THE DISCONNECTION NOTICE NO.BB/DC/10-11/1/70 DATED 13.08.2010 ISSUED BY THE 5TH RESPONDENT
EXHIBIT P3. THE TRUE COPY OF THE INTERIM ORDER IN W.P.C. 26680/2010 OF THIS HON'BLE COURT DATED 06.09.2010.
EXHIBIT P4. THE TRUE COPY OF THE ORDER OF THIS HONOURABLE COURT IN W.P NO.26680/2010 DATED 10.06.2012.
EXHIBIT P5. THE TRUE COPY OF THE RECEIPT DATED 09.08.2012.
EXHIBIT P6. THE TRUE COPY OF THE ORDER NO.SC-19864/2012/CEI DATED 14.12.2012 ISSUED BY THE 2ND RESPONDENT.
EXHIBIT P7. THE TRUE COPY OF THE DISCONNECTION NOTICE NO.BB/ARREAR NOTICE/12-13/CGNR/257/DATED 18.01.2013 ISSUED BY THE 6TH RESPONDENT.
EXHIBIT P8. THE TRUE COPY OF THE ORDER OF THIS HON'BLE COURT HONOURABLE COURT IN W.P NO.3265/2013 DATED 04.02.2013.
EXHIBIT P9. THE TRUE COPY OF THE RECEIPT DATED 19.02.2013.
EXHIBIT P10. THE TRUE COPY OF THE DISCONNECTION NOTICE NO.BB/DC NOTICE/13-14/2/302 DATED 20.12.2013 ISSUED BY THE 6TH RESPONDENT.

RESPONDENT(S) ' EXHIBITS

EXHIBIT R1(a): COPY OF LETTER ISSUED BY the 2ND RESPONDENT TO 5TH RESPONDENT DATED 11.9.2013.
EXHIBIT R1(b): COPY OF LETTER ISSUED BY THE 5TH RESPNDENT TO 2ND RESPONDENT DATED 30.9.13.
EXHIBIT R1(c): COPY OF LETTER ISSUED BY THE 2ND RESPONDENT TO 5TH RESPONDENT DATED 11.10.13.

/TRUE COPY/

PS TO JUDGE

ANU SIVARAMAN, J.

W.P(C).No. 405 of 2014

Dated this the 14th December, 2015

JUDGMENT

The above writ petition is filed challenging Exhibit P10 notice issued by the first respondent, Kerala State Electricity Board demanding an amount of Rs.81,170/- from the petitioner towards arrears of electricity charges due from the petitioner. The petitioner, who is the proprietor of a jewellery showroom, had been earlier issued with a bill for Rs.3,10,681/- which she had challenged before this Court stating that no details regarding the same were available and that she was not liable for any amount as raised by the respondents. An interim stay was granted on condition that petitioner pays an amount of Rs.1,55,340/- which was paid by the petitioner. The petitioner claims that Exhibit P1 statutory appeal had been preferred before the third respondent, but without considering the same, proceedings were initiated against her. By Exhibit P4 judgment, the

respondents were directed to consider the appeal preferred by the petitioner. The petitioner was also directed to remit an amount of Rs.50,000/- without prejudice her contentions.

2. The petitioner had remitted the amounts as directed by this Court, but the appeal was not disposed of on the ground that the same had been preferred before the third respondent and that appeal was maintainable only before the second respondent. Again, Exhibit P7 demand was raised which was challenged before this Court and by Exhibit P8 judgment, the petitioner was directed to produce a copy of Exhibit P1 appeal before the second respondent within two weeks from the date of receipt of a copy of the judgment. The second respondent was thereafter directed to dispose of the same on merits after notice to the petitioner and other parties interested. It was further directed that the electricity connection should not be disconnected, if one-half of the amount demanded by Exhibit P7 is paid within two weeks. It is not in dispute that the one-half of the amount as demanded in Exhibit P7 was actually paid by the petitioner

by Exhibit P9 dated 19.2.2013. However, thereafter also Exhibit P10 notice has been issued by the Board claiming an amount of Rs.81,170/- from the petitioner without disposing of the appeal. This was challenged in this writ petition.

3. A counter affidavit has been filed on behalf of respondents 1, 4, 5 and 6 stating that several opportunities were given to the petitioner which were not properly availed by him and that after Exhibit P8 judgment, the second respondent had addressed the Board requiring them to forward information whether the matter has been settled between the parties. It is stated that Exhibit R1(b) reply has been sent by the Board stating that the matter had not been settled and thereafter Exhibit P10 notice was issued demanding the balance amount.

4. Heard Sri.Ajith Murali, learned counsel for the petitioner and the learned Standing Counsel for the Kerala State Electricity Board as well as the learned Government Pleader appearing for the second respondent.

5. It is not in dispute that the petitioner had made substantial payments as directed by this Court on several occasions for the purpose of getting a consideration of her statutory appeal by the appellate authorities. It is also not in dispute that the appeal preferred by the petitioner had not been considered on merits by any of the authorities. It is in the above circumstances that Exhibit P8 judgment was rendered directing the second respondent, who, according to the respondents, was a statutory appellate authority to consider the case put forth by the petitioner. Thereafter also, the petitioner had evidently made the payments as directed by this Court in Exhibit P8 judgment within the time stipulated. However, Exhibit P1 appeal which had been produced by the petitioner along with the writ petition and which was directed to be disposed of, did not gain attention of the second respondent. The reason now stated before me is that the petitioner had not produced copy of Exhibit P1 before the second respondent and had not turned up for a hearing. It is evident from the counter affidavit filed on

behalf of respondents 1, 4, 5 and 6 that the second respondent had, as a matter of fact, taken up the appeal preferred by the petitioner and had enquired with the KSEB whether the matter had been settled. The KSEB had also replied to the second respondent by Exhibit R1(b) letter stating that the matter had not been settled. In the above circumstances, nothing prevented the second respondent, in the light of the directions contained in Exhibit P8 judgment, from issuing a notice to the petitioner for hearing to be conducted by it on the appeal. This is more so, in view of the fact that the amount as directed in Exhibit P8 judgment had also been paid by the petitioner, receipt for which is produced as Exhibit P9.

In the above circumstances, I am of the opinion that it is imperative that the statutory appellate authority should be directed to consider the appeal preferred by the petitioner on merits. For enabling the consideration of Exhibit P1 appeal, the petitioner or its authorised representative and the authorised representative of the

respondents are directed to appear before the second respondent on 6.1.2016 at 11 a.m. The second respondent shall, thereafter, consider the appeal, which is preferred by the petitioner and is available on record as Exhibit P1 and shall pass appropriate orders thereon after hearing the parties within a period of two months thereafter. The petitioner is permitted to produce additional documents, if any, with a copy to the respondents. The recovery of any amount pursuant to Exhibit P10 shall stand deferred until final orders are passed on the appeal by the second respondent and communicated to the petitioner.

The writ petition is ordered accordingly.

**ANU SIVARAMAN
JUDGE**

vgs15/12