

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

WP(C).No. 9957 of 2008 (I)

PETITIONERS:

**M/S. VASANTH CLOTH STORES, KOZHJAMPARA
REPRESENTED BY ITS PROPRIETOR C.HARIDAS**

**BY ADVS.SRI.J.JULIAN XAVIER
SRI.FIROZ K.ROBIN**

RESPONDENTS:

- 1. KERALA STATE ELECTRICITY BOARD
REP. BY ITS SECRETARY, VYDYUTHI BHAVAN, PATTOM
THIRUVANANTHAPURAM.**
- 2. DEPUTY CHIEF ENGINEER
(APPELLATE AUTHORITY UNDER SECTION 127 OF
THE ELECTRICITY ACT), ELECTRICAL CIRCLE, PALAKKAD.**
- 3. ASSISTANT ENGINEER, ELECTRICAL SECTION
KOZHJAMPARA.**
- 4. ANTI POWER THEFT SQUAD
KERALA STATE ELECTRICITY BOARD, PALAKKAD UNIT
PALAKKAD.**

**R1 TO R4 BY ADV. SRI.P.SANTHALINGAM (SR.)
SRI.P.P.THAJUDEEN, SC, K.S.E.B
SRI.C.K.KARUNAKARAN, SC FOR KSEB
SRI.S.SHARAN,SC,K.S.E.BOARD**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
26-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DCS

APPENDIX

PETITIONER(S)' EXHIBITS

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- EXHIBIT P1: COPY OF THE BIMONTHLY BILL DATED 22.09.2007**
- EXHIBIT P1(a): COPY OF THE BIMONTHLY BILL DATED 23.07.2007**
- EXHIBIT P1(b): COPY OF THE BIMONTHLY BILL DATED 15.05.2007**
- EXHIBIT P1(c): COPY OF THE BIMONTHLY BILL DATED 17.3.2007**
- EXHIBIT P1(d): COPY OF THE BIMONTHLY BILL DATED 20.1.2007**
- EXHIBIT P2: COPY OF BILL DATED 22.1.2008**
- EXHIBIT P3: COPY OF THE LETTER DATED NIL ISSUED BY THE 3RD RESPONDENT**
- EXHIBIT P4: COPY OF THE REPRESENTATION DATED 25.1.2008 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT**
- EXHIBIT P5: COPY OF THE BILL DATED 25.1.2008**
- EXHIBIT P6: COPY OF THE OBJECTION DATED 28.01.2008**
- EXHIBIT P7: COPY OF THE JUDGMENT DATED 28.1.2008 IN W.P.(C). NO.3289/2008**
- EXHIBIT P8: TRUE COPY OF THE MAHAZAR WHICH WAS HANDED OVER TO THE PETITIONER ON 7.2.2008**
- EXHIBIT P9: COPY OF THE ORDER DATED 21.02.2008 ISSUED BY THE 3RD RESPONDENT**
- EXHIBIT P9(a): COPY OF THE BILL WHICH WAS ATTACHED WITH EXT. P9**
- EXHIBIT P10: COPY OF THE APPEAL DATED 15.3.2008**
- EXHIBIT P11: COPY OF THE ORDER DATED 23.09.2008 ISSUED BY THE 2ND RESPONDENT**
- EXHIBIT P12: COPY OF THE REPORT DATED 7.1.2006**
- EXHIBIT P12(a): COPY OF THE REPORT 13.02.2008**
- EXHIBIT P13 : COPY OF THE CHART SHOWING THE CONSUMPTION AFTER THE INSPECTION**

RESPONDENT(S)' EXHIBITS:-

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- EXHIBIT R1(a) : COPY OF THE BILL OF 11/2007 DATED 17.11.2007 ISSUED TO THE PETITIONER**

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 9957 OF 2008

Dated this the 26th day of May, 2015

JUDGMENT

That a theft of electrical energy has been found concurrently by the authorities below. Ext. P9 order of the third respondent and Ext. P11 appellate order of the second respondent are rested on facts. The authorities have relied on Ext. P8 site mahazar which reveals the following:-

i) TMR seals on the front of the meter cover were seen cut and removed.

ii) The above facilitates the consumer to open the meter cover and change the reading of meter dial.

iii) The paint of the meter dial was seen damaged probably on account of use of screw driver.

2. The site mahazar is seen attested by an independent witness as well. The son of the consumer though present at the spot refused to sign. The meter showed consumption of 110 units since the date of last spot billing. It is on that basis has the penalty been assessed for theft of electrical energy.

3. Exts. P9 and P11 orders do not suffer from any infirmity in law. The site mahazar and the attendant circumstances have been well taken into account. I am not for a moment prepared to accept the contention that the respondents were inimical towards the petitioner. The finding of theft as well as the assessment of penalty on the basis of consumption of electrical energy is well founded.

4. The petitioner has reportedly remitted one third of the amount demanded pursuant to Ext. P7 judgment. The balance amount shall be paid in three equal monthly instalments starting from 15.06.2015. The coercive steps can be initiated against the petitioner if the instalments are not paid in time.

The writ petition is disposed of. No costs.

**V. CHITAMBARESH
JUDGE**

DCS