

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

FRIDAY, THE 24TH DAY OF JULY 2015/2ND SRAVANA, 1937

WP(C).No. 17025 of 2007 (B)

PETITIONER:

K.T.THOMAS, PROPRIETOR,
HOTEL ARCADIA, T.B.ROAD,
KOTTAYAM.

BY ADVS.SRI.M.PATHROSE MATTHAI (SR.)
SRI.SAJI VARGHESE
SMT.MARIAM MATHAI
SRI.J.JULIAN XAVIER
SRI.FIROZ K.ROBIN

RESPONDENTS:

1. THE ASSISTANT ENGINEER,
ELECTRICAL SECTION,
KOTTAYAM CENTRAL,
K.S.E.BOARD, KOTTAYAM 686039.
2. THE CONSUMER GRIEVANCE REDRESSAL FORUM,
(SOUTH), KOTTARAKKARA REPRESENTED BY THE
DEPUTY CHIEF ENGINEER, CHAIRPERSON,
VYDYUTHI BHAVAN, KOTTARAKKARA.
3. THE OMBUDSMAN, K.S.E.BOARD, K.P.F.C. BHAVAN
C.V.RAMAN PILLAI ROAD, VELLAYAMBALAM
THIRUVANANTHAPURAM 695 010.
4. KERALA STATE ELECTRICITY BOARD,
VYDYUTHI BHAVANAM, PATTOM
THIRUVANANTHAPURAM
REPRESENTED BY ITS SECRETARY.

R1 TO 4 BY ADV. SMT.PK.RADHIKA-KSEB
BY SRI.K.S.ANIL, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24-07-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1 : TRUE COPY OF THE BILL NO. 94948 DATED 17.10.2005 FOR THE PERIOD FROM APRIL 2001 TO SEPTEMBER 2001 ISSUED BY THE 4TH RESPONDENT.
- EXHIBIT P2 : TRUE COPY OF ORDER NO. AE/KTM (C)/05-06/2 DATED 19.12.2005 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P3 : TRUE COPY OF THE JUDGMENT DATED 25.09.2006 IN WP(C) NO. 2345/06 OF THE HONOURABLE HIGH COURT OF KERALA
- EXHIBIT P4 : TRUE COPY OF THE ORDER IN OP NO. 127/06 DATED 11.01.2006 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P5 : TRUE COPY OF THE ORDER IN OP NO. 127/2006 DATED 11.04.2007 ISSUED BY THE 3RD RESPONDENT.
- EXHIBIT P6 : TRUE COPY OF THE NOTICE NO. BB/2007-08/AB-ARCADIA/30 DATED 21.05.2007 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P7 : TRUE COPY OF THE BILL FOR THE MONTH OF 4/2001
- EXHIBIT P7(a) : TRUE COPY OF THE BILL FOR THE MONTH OF 5/2001
- EXHIBIT P7(b) : TRUE COPY OF THE BILL FOR THE MONTH OF 6/2001
- EXHIBIT P7(c) : TRUE COPY OF THE BILL FOR THE MONTH OF 7/2001
- EXHIBIT P7(d) : TRUE COPY OF THE BILL FOR THE MONTH OF 8/2001
- EXHIBIT P7(e) : TRUE COPY OF THE BILL FOR THE MONTH OF 9/2001

RESPONDENT(S) EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

WP(C) NO. 17025 OF 2007

Dated this the 24th day of July, 2015

JUDGMENT

All the statutory authorities have concurrently found that the meter was burnt and not defective. Therefore no question of referring the dispute to the Electrical Inspector arose under Section 26(6) of the Indian Electricity Act, 1910. The finding that the meter was burnt necessitating short assessment proceedings has been noticed by the authorities.

2. The period in question falls when the Conditions of Supply of Electrical Energy, 1990 is applied. Regulation 31(c) thereof permitted the average consumption for the previous three months to be taken for the purpose of short assessment. But in the instant case the previous consumption for six months has evidently been taken. This requires correction at the hands of the respondents.

3. Short assessment can even be on the basis of audit inspection. It has been so held in W.A. No. 975/2014. No doubt the first bill was issued when the KSEB Terms and Conditions of

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Supply, 2005 applied. But then the period for which the short assessment was made falls when the regulations of 1990 was in force.

4. Exts.P1 and P6 bills are quashed. The respondents are directed to issue revised bill to the petitioner. The same shall be in accordance with the observations above.

The Writ Petition is disposed of.

**V. CHITAMBARESH
JUDGE**

ncd