

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(C).No. 16884 of 2012 (I)

PETITIONER(S):

1. T.GEORGE VARGHESE
S/O.IDICULA GEORGE, AGED 63 YEARS
RESIDING AT TC 2/3310, A1, CHALAKUZHLY LANE
PATTOM, THIRUVANANTHAPURAM - 695005.
2. MRS.SUSAN VARGHESE
W/O.GEORGE VARGHESE, AGED 56 YEARS
RESIDING AT TC 2/3310, A1, CHALAKUZHLY LANE
PATTOM, THIRUVANANTHAPURAM - 695005.

BY ADVS.SRI.C.K.PAVITHRAN
SRI.M.VIVEK

RESPONDENT(S):

1. ASSISTANT ENGINEER
KSEB ELECTRICAL SECTION, KESAVADASAPURAM P.O.,
THIRUVANANTHAPURAM - 695 069.
2. ASSISTANT EXECUTIVE ENGINEER
KSEB, KESAVADASAPURAM SECTION, THIRUVANANTHAPURAM - 695 069
3. KERALA STATE ELECTRICITY BOARD
VIDYUTHI BHAVAN, PATTOM P.O., THIRUVANANTHAPURAM - 695 001
REPRESENTED BY ITS SECRETARY.
4. SHRI.GOPAL P.PRASAD
MANAGING DIRECTOR, M/S.NIYAMAS TECHNOLOGY (PVT) LTD.
RESIDING AT "USHUS", SREE NAGAR
PARUTHIPPARA P.O., THIRUVANANTHAPURAM - 695 005

R1 TO 3 BY ADV. SRI.T.R.RAJAN,SC,K.S.E.B.

R4 BY ADV. SRI.R.GOPAN

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

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
14-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.(C) NO.16884 OF 2012

PETITIONER'S EXTS:

- EXT.P1 TRUE COPY OF THE LEASE DEED DATED 22.7.2008
- EXT.P2 TRUE COPY OF THE CONSUMER BILL DATED 7.5.2012 WITH ENGLISH TRANSLATION.
- EXT.P3 TRUE COPY OF THE PROCEEDINGS DATED 22.7.2008
- EXT.P4 TRUE COPY OF THE COMPLAINT NO.846/08
- EXT.P5 TRUE COPY OF THE ORDER DATED 4.8.2008 IN I.A.NO.453/08 IN COMPLAINT NO.846/08
- EXT.P6 TRUE COPY OF THE ORDER DATED 16.12.2008
- EXT.P7 TRUE COPY OF THE ORDER DATED 18.11.2010
- EXT.P8 TRUE COPY OF THE NOTICE DATED 5.7.2012
- EXT.P9 TRUE COPY OF THE E-MAIL DATED 9.7.2012

RESPONDENT'S EXTS:

- EXT.R1(a) TRUE COPY OF THE SITE MAHAZAR DATED 16.7.2008
- EXT.R1(b) TRUE COPY OF THE PROVISIONAL ASSESSMENT DATED 22.7.2008
- EXT.R1(c) TRUE COPY OF THE ORDER DATED 4/8/2008 IN I.A.NO.453/2008 IN COMPLAINT NO.846/2008 OF THE HON'BLE UPALOKAYUKTHA.

//true copy//

P.S.TO JUDGE.

V.CHITAMBARESH, J.

W.P (C) No. 16884 of 2012

Dated this the 14th day of July, 2015

J U D G M E N T

Ext.P3 provisional assessment order was served on the fourth respondent tenant. But Ext.P8 final assessment order is served on the first petitioner landlord. Three contentions are urged in this writ petition. The first contention is that only the fourth respondent was the consumer. The second contention is that there is no basis for imposing penalty. The third respondent is that the demand is barred by limitation. All these contentions can be urged in the statutory appeal. An appeal lies under Section 127 of the Electricity Act, 2003. An appellate authority has been constituted pursuant to the decision in Muhammed Haji v. Kerala State Electricity Board [2014 (3) KLT 706].

2. Any appeal filed within one month from today shall be dealt with within two months therefrom. The petitioners have remitted a sum of ₹ 4 lakhs pursuant to the interim order in this writ petition. The fourth respondent has remitted a sum of ₹1,50,000/- pursuant to Ext.P5 order of the Kerala Lokayuktha. The fourth respondent has since withdrawn the complaint

preferred to the Kerala Lokayuktha. The sum of ₹ 5,50,000/- should be given credit to while computing the statutory deposit. The statutory deposit of half of the assessed amount is mandatory under Section 127 of the Electricity Act.

3. The electricity connection shall not be snapped pending disposal of the appeal if any filed. Appropriate safeguards shall be made in the appellate order after fastening the liability on the petitioners or the fourth respondent.

The writ Petition is disposed of.

V.CHITAMBARESH,
Judge.

nj.