IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

WEDNESDAY, THE 10TH DAY OF JUNE 2015/20TH JYAISHTA, 1937

WP(C).No. 17246 of 2015 (E)

PETITIONER(S):

ABDUL RASHEED @ DR. A.R. BABU, AGED 37 YEARS
MANAGING DIRECTOR
HEERA CONSTRUCTION COMPANY PVT.LTD.,
M.P.APPAN ROAD
VAZHUTHACAUD, THIRUVANANTHAPURAM
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER AJMAL A.M.
DEPUTY GENERAL MANAGER
HEERA CONSTRUCTION COMPANY PVT.LTD., NATIONAL RESIDENCY
BANK JUNCTION, EDAPPALLY, KOCHI-682 024.

BY ADV. SRI.K.PRAVEEN KUMAR

RESPONDENT(S):

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1. THE KERALA STATE ELECTRICITY BOARD LIMITED,
REPRESENTED BY ITS SECRETARY, VYDHUTHI BHAVAN
THIRUVANANTHAPURAM - 695 001.

2. THE DEPUTY CHIEF ENGINEER
ELECTRICAL CIRCLE
KERALA STATE ELECTRICITY BOARD LIMITED
ERNAKULAM - 682 018.

3. THE ASSISTANT ENGINEER
KERALA STATE ELECTRICITY BOARD LIMITED
ELECTRICAL SECTION, THRIKKAKARA, ERNAKULAM 682 021.

4. THE SUB ENGINEER
KERALA STATE ELECTRICITY BOARD LIMITED
ELECTRICAL SECTION, THRIKKAKARA, ERNAKULAM 682 021.

5. STATE OF KERALA
REPRESENTED BY ITS SECRETARY, POWER DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM- 695 001.

R BY SR. GOVERNMENT PLEADER SRI.THOMAS JOHN AMBOOKEN.
R BY SRI.JAICE JACOB,SC,KERALA STATE ELECTRICITY BOARD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 17246 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - TRUE COPY OF THE SITE MAHAZAR DATED 6.5.15 ISSUED BY THE FOURTH RESPONDENT.

P2 - TRUE COPY OF THE COVERING LETTER ISSUED BY THE 3RD RESPONDENT.

P2(A) - TRUE COPY OF THE PROVISINAL BILL AND CALCULATION STATEMENT ISSUED BY THE 3RD RESPONDENT.

P3 - TRUE COPY OF THE OBJECTION PREFERRED BY THE PETITIONER DATED 12.05.2015

P4 - TRUE COPY OF THE ORDER DATED 25.05.2015 ISSUED BY THE 3RD RESPONDENT

P5 - TRUE COPY OF THE APPEAL PREFERRED BY THE PETITIONER.

P5(A) - TRUE COPY OF THE STAY PETITION PREFERRED ALONG WITH THE APPEAL.

P5(B) - TRUE COPY OF THE PETITION SEEKING TO EXEMPT THE PETITIONER FROM PAYING THE 50% OF THE FINE AMOUNT FILED ALONG WITH THE APPEAL.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE.

V.CHITAMBARESH, J.

W.P (C) No.17246 of 2015

Dated this the 10th day of June, 2015

J U D G M E N T

The allegation is that the power allotted to the common area in the flat is extended to two commercial buildings and 55 apartments. Ext.P4 order of assessment accordingly passed under Section 126 of the Electricity Act, 2003 is appealed against.

2. Ext.P5 appeal filed under Section 127 of the Electricity Act, 2003 is accompanied by Ext.P5(a) petition for stay. The petitioner has also filed Ext.P5(b) petition seeking to exempt from making the statutory deposit under Section 127(2) of the Electricity Act, 2003.

3. The petitioner having challenged Ext.P4 order in Ext.P5 appeal cannot impugn the very same order in this Writ Petition. There is also no provision to exempt the petitioner from making the statutory deposit under Section 127(2) of the Electricity Act, 2003. Many disputed questions of fact arise for consideration while testing the correctness of Ext.P4 order. It will be inequitable to

entertain this writ petition when the petitioner has an effective alternate remedy by way of appeal.

The Writ Petition is dismissed.

Sd/-
V.CHITAMBARESH,
Judge.

nj.