

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 24797 of 2007 (B)

PETITIONER :

**K.A.ABDUL KHADER, AGED 61 YEARS,
S/O.LATE MR.AHAMMED AMMU, PROPRIETOR,
ASSOCIATE TRADE LINKS, PALACE ROAD, ALUVA TALUK,
ERNAKULAM DISTRICT.**

BY ADV. SRI.K.N.CHANDRABABU

RESPONDENTS :

- 1. KERALA STATE ELECTRICITY BOARD,
VYDYUTHI BHAVAN, THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY.**
- 2. THE ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL MAJOR SECTION, ALUVA TOWN, ALUVA.**
- 3. THE ASSISTANT ACCOUNTS OFFICER,
KERALA STATE ELECTRICITY BOARD, BILLING
SUPERVISION UNIT, ELECTRICAL MAJOR SECTION,
ALUVA TOWN, ALUVA.**
- 4. THE DEPUTY TAHSILDAR (REVENUE RECOVERY)
O/O. THE SPECIAL TAHSILDAR, REVENUE RECOVERY, ALUVA.**
- 5. THE EXECUTIVE ENGINEER,
ELECTRICAL DIVISION, ALUVA.**

**R1 TO R3 & R5 BY ADV. SMT.P.K.RADHIKA-KSEB
R4 BY SENIOR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPPEN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE GOVERNMENT ORDER (MS) 136/89/ID DT 2/9/1989.
- P2: COPY OF THE ADDITIONAL BILL DT 24/9/1999 ISSUED AS ASST. ENGINEERS.
- P3: COPY OF THE COMPLAINTS/REPRESENTATIONS BEFORE THE ASST. EXECUTIVE ENGINEER, KERALA STATE ELECTRICITY BOARD, CIRCLE OFFICE, ALUVA MADE BY THE PETITIONER.
- P4: COPY OF THE REPRESENTATION BEFORE THE HON'BLE MINISTER FOR ELECTRICITY & CO-OPERATION, GOVERNMENT OF KERALA MADE BY THE PETITIONER.
- P5: COPY OF THE ORDER DT 24/11/1999 ISSUED BY THE R3.
- P6: COPY OF THE COMPLAINT DT 29TH AUGUST 2000 MADE BY THE PETITIONER.
- P7: COPY OF THE DEMAND NOTICE DT 18/4/2002.
- P8: COPY OF THE REVENUE RECOVERY UNDER SECTION 7 & 34.
- P9: COPY OF THE APPEAL SUBMITTED BY THE PETITIONER ON 17/12/2002 BEFORE THE R3.
- P10: COPY OF THE ORDER NO. GB/CASES/OP-36421/02(J)/03-04/3022/20.10.2003.
- P11: COPY OF THE NOTICE ISSUED U/S. 34 OF THE REVENUE RECOVERY ACT.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 24797 of 2007 (B)

.....
Dated this the 9th day of February, 2015

JUDGMENT

The petitioner, who was running a small scale industrial unit, which was established in the year 1978, states that his industrial unit was under lay off from 10th June, 1997 and re-opened only 18th August, 1997, and further, between the period from 2nd September, 1997 to 11th October, 1997, it was again laid off and thereafter, from 12th November, 1997 onwards, the workers went on strike and the petitioner was eventually forced to close the industrial unit.

2. In the present writ petition, the petitioner is essentially aggrieved by Ext.P2 additional bill for electricity charges that was served on him for the period from February, 1998 to July, 1999. Although, the petitioner challenged the said bill in an appeal preferred before the 5th respondent/Executive Engineer, by Ext.P10 order, the 5th respondent rejected the contention of the petitioner and confirmed the demand in Ext.P2 bill that was served on the petitioner. Ext.P2 bill as well as Ext.P10 order of the 5th respondent is impugned.

3. I have heard Sri.K.N.Chandrababu, learned counsel for the petitioner and Smt.P.K.Radhika, learned Standing counsel for

the respondents.

4. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I find that, although, it was the specific case of the petitioner, in the appeal preferred before the 5th respondent, that there were periods during which, the petitioner's unit was not functioning consequent to a lay off, as also on account of a strike by the workers of the unit, the said aspect has not been considered by the 5th respondent while passing Ext.P10 order. That apart, it is the specific case of the petitioner that, inasmuch as the readings of the meter, that was installed in the premises, was relied upon by the respondents for demanding additional amounts from him for the period from February, 1998 to July, 1999 through Ext.P2 bill, the respondents ought to have looked into the contention of the petitioner that the meter was not properly functioning. The petitioner contends that there could not have been such a high consumption at a time when the petitioner's factory was under lay off, or not functioning consequent to a strike by the workers of the unit.

5. I am of the view that these aspects require factual verification by the 5th respondent with reference to documents that the petitioner would have to produce to substantiate his contentions

on merits. That apart, I am of the view that, the 5th respondent has necessarily to look into the surrounding facts, such as the consumption recorded by the unit, at a time when it was admittedly functioning, and also the amounts demanded from the petitioner during such undisputed periods when the bill amounts were not disputed even by the respondent Board. I also take note of the fact that during the pendency of the writ petition, the entire amount demanded against the petitioner by Ext.P2 bill has already been paid by the petitioner. Thus, a re-consideration of Ext.P9 appeal by the 5th respondent cannot cause any prejudice to the respondent. I, therefore direct the 5th respondent to re-consider Ext.P9 appeal preferred by the petitioner, after hearing the petitioner, and pass orders thereon within a period of three months from the date of receipt of a copy of this judgment. To enable the 5th respondent to have a fresh look into the matter, I quash Ext.P10 order passed by him.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE