

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

WP(C).No. 17898 of 2015 (J)

PETITIONER:

**K.K.AHAMED, AGED 63 YEARS
KUNHABDULLA, AGED 63 YEARS, PRESIDENT
WAYANAD MUSLIM
ORPHANAGE, MANDAD P.O.,
MUTTIL, KALPETTA, WAYANAD DIST - 673 122**

BY ADV. SRI.K.A.MOHAMED HARIS

RESPONDENTS:

- 1. KERALA STATE ELECTRICITY BOARD LIMITED
VYDHYUTHI BHAVAN, PATTOM
THIRUVANANTHAPURAM - 695 004**
- 2. THE ASSISTANT ENGINEER
ELECTRICAL SECTION, KSEB, PANAMARAM
WAYANAD, PIN CODE - 673 122**
- 3. THE EXECUTIVE ENGINEER
ELECTRICAL DIVISION, KSEB, MANANTHAVADY
WAYANAD, PIN CODE - 673 122**
- 4. THE DEPUTY CHIEF ENGINEER
ELECTRICAL CIRCLE, KSEB, KALPETTA
WAYANAD, PIN CODE - 673 122**
- 5. THE CHIEF ENGINEER
KSEB, VYDHYUTHI BHAVAN, PATTOM
THIRUVANANTHAPURAM - 695 004**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

DCS

APPENDIX

PETITIONER(S)' EXHIBITS

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- P1 : COPY OF THE ACRREDITATION CERTIFICATE ISSUED BY THE DISTRICT SOCIAL JUSTICE OFFICER**
- P2 : COPY OF THE SITE MAHAZAR PREPARED BY THE ASSISTANT ENGINEER, PANAMARAM ELECTRICAL SECTION IN THE PRESENCE OF APTS TEAM DATED 14.08.2012**
- P3 : COPY OF THE FINAL ASSESSMENT INVOICE ISSUED BY THE ASSISTANT ENGINEER ELECTRICAL SECTION, PANAMARAM DATED 29.08.2012**
- P4 : COPIES OF THE OBJECTIONS FILED BEFORE THE KALPETTA ELECTRICAL CIRCLE DEPUTY CHIEF ENGINEER**
- P5 : COPY OF THE PROCEEDINGS ISSUED BY THE KOZHIKODE ELECTRICAL CIRCLE DEPUTY CHIEF ENGINEER DATED 19.06.2013**
- P6 : COPY OF THE RELEVANT PAGES OF THE JUDGMENT (TAKEN FROM THE WEBSITE) OF THIS HONOURABLE COURT IN INDUS TOWERS LIMITED VS. KERALA STATE ELECTRICITY BOARD [WP(C). NO. 25404 OF 2011] DECIDED ON 20TH DAY OF JANUARY 2014**
- P7: COPIES OF THE SHORT ASSESSMENT INVOICE ISSUED BY THE ASSISTANT ENGINEER ELECTRICAL SECTION, PANAMARAM DATED 12.12.2012**
- P7(a): COPIES OF THE LETTERS ISSUED BY THE ASSISTANT ENGINEER, ELECTRICAL, ELECTRICAL SECTION, PANAMARAM TO CONSUMER NOS. 8579, 9021, 10362, 7832, 7876 DATED 12.12.2012**
- P8: COPIES OF THE SHORT ASSESSMENT LETTERS ISSUED BY THE ASSISTANT ENGINEER ELECTRICAL SECTION, PANAMARAM DATED 04.12.2014**
- P8(a): COPIES OF THE INVOICES ISSUED BY THE ASSISTANT ENGINEER, ELECTRICAL SECTION, PANAMARAM TO CONSUMER NOS. 8579, 9021, 10362, 7832, 7876 DATED 1.12.2014 & 29.11.2014**
- P9: COPIES OF THE INVOICES ISSUED BY THE ASSISTANT ENGINEER, ELECTRICAL SECTION, PANAMARAM TO CONSUMER NOS. 8579, 9021, 10362, 7832, 7876 DATED 18.04.2015**
- P9(a): COPIES OF THE INVOICES ISSUED BY THE ASSITANT ENGINEER, ELECTRICAL SECTION, PANAMARAM TO CONSUMER NOS. 8579, 9021, 10362, 7832, 7876 DATED 18.04.2015**

DCS

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P10: COPIES OF THE INSTALLMENT PLAN LETTERS ISSUED BY THE ASSISTANT ENGINEER ELECTRICAL SECTION, PANAMARAM

P10(a): COPY OF THE PAYMENT RECEIPTS ISSUED TO CONSUMER NOS. 8579, 9021, 10362, 7832, 7876

P11: COPIES OF THE RELEVANT PAGES OF THE KSE BOARD ORDER VIDE B.O. (FB) NO. 2518/2013 (KSEB/TRAC/S CODE/R2/2009) THIRUVANANTHAPURAM DATED 28.11.2013

P12: COPIES OF THE RELEVANT PAGES OF THE JUDGMENT (TAKEN FROM THE WEBSITE) OF THIS HONOURABLE COURT IN ING VYSYA BANK V. THE ASSISTANT ENGINEER, KSEB [WP(C). NO. 17975 OF 2014 (V)] DECIDED ON 30.07.2014

P12(a) COPIES OF THE RELEVANT PAGES OF JUDGMENT (TAKEN FROM THE WEBSITE) OF THIS HONOURABLE COURT IN K.S.ABDULSATHAR HAJI V. KERALA STATE ELECTRICITY BOARD [W.P.(C). NO. 12626 OF 2011 DECIDED ON 21ST JUNE 2012]

RESPONDENT(S)' EXHIBITS:- NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 17898 OF 2015

Dated this the 16th day of June, 2015

JUDGMENT

The extraordinary jurisdiction under Article 226 of the Constitution of India can be invoked only if the ordinary jurisdiction is exhausted in normal circumstances. The petitioner in the instant case can as well move the Consumer Grievances Redressal Forum under Regulation 130(8) of the Kerala Electricity Supply Code, 2014 which is as under:-

“130. **Disputed bills.**- (8) While communicating the decision on the review of the bill, the licensee shall advise the consumer in writing about his right to prefer an application against the decision of the licensee before the Consumer Grievances Redressal Forum (CGRF) and further to prefer appeal before the Ombudsman.”

2. This is a case of short assessment of the electricity charges allegedly consumed by the petitioner. The petitioner contends that no site mahazar was prepared at the time of

inspection by the Regional Audit Wing. The petitioner adds that the recovery proceedings initiated is barred by limitation. It is also the case of the petitioner that short assessment by re-opening the proceedings cannot be resorted to after penalty is levied.

3. The above contentions are seriously refuted on behalf of the Kerala State Electricity Board. The Kerala State Electricity Board points out that the proceedings were initiated well in time and is not barred by limitation. The Kerala State Electricity Board also contends that there is no legal bar for the short assessment proceedings.

4. The parties are at variance as to the necessity for a site mahazar and whether it was really prepared or not. All these are matters to be adjudicated before the Consumer Grievances Redressal Forum. A remedy lies under Regulation 130(8) of the Kerala Electricity Supply Code, 2014. The writ petition is misconceived when many factual disputes required to be adjudicated for which a separate forum is constituted.

5. The petitioner has reportedly remitted almost one half of the amount now demanded by way of short assessment. The petitioner is free to move the Consumer Grievances Redressal Forum within one month from today. Any such

motion shall be dealt with by the Forum within two months therefrom. The coercive steps against the petitioner shall be put on hold till the Consumer Grievances Redressal Forum gives a verdict.

The writ petition is disposed of.

**V. CHITAMBARESH
JUDGE**

DCS