

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 18TH DAY OF JUNE 2015/28TH JYAISHTA, 1937

WP(C).No. 18337 of 2015 (N)

PETITIONER(S):

1. **AYYAPPAN BALAKRISHNAN,
KAITHAVALAPPIL HOUSE, MANJUMMANL P.O.,
UDYOGAMANDAL, ERNAKULAM**
2. **ANIL KUMAR, KAITHAVALAPPIL HOUSE,
MANJUMMANL P.O., UDYOGAMANDAL, ERNAKULAM**

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT(S):

1. **THE KERALA STATE ELECTRICITY BOARD LTD,
REPRESENTED BY ITS SECRETARY, VAIDHYTHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM 695 001**
2. **ASSISTANT ENGINEER, OFFICE OF THE ASSISTANT ENGINEER,
ELECTRICAL SECTION, KERALA STATE ELECTRICITY BOARD,
ELOOR, ERNAKULAM 682 012**
3. **TONY THOMAS, S/O THOMAS, AGED 36 YEARS,
KANAPPALLY HOUSE, PALARA, MUPPATHADAM P.O.,
KADUNKALLOOR VILLAGE, NORTH PARAVUR TALUK,
ERNAKULAM PIN 682 011**

**BY SRI.SAJEEVKUMAR K.GOPAL,SC,KSEB
SRI.JAICE JACOB, SC, KSEB**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
18-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

WP(C).No. 18337 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P1 : COPY OF THE SALE DEED DATED 6.9.2003

**EXT.P2 : TRUE COPY OF THE RENT AGREEMENT DATED 25.4.2013
BETWEEN THE 2ND PETITIONER AND THE 3RD RESPONDENT.**

**EXT.P3 : TRUE COPY OF THE LETTER DATED 2.12.2013 INTIMATING OF
PROCEEDINGS ALONG WITH THE PROVISIONAL BILL DATED
2.12.2013**

**EXT.P4 : TRUE FINAL BILL DATED 19.12.2013 ISSUED BY THE 2ND
RESPONDENT.**

**EXT.P5 : TRUE COPY OF THE ORDER DATED 21.2.2014 PASSED BY THE
2ND RESPONDENT.**

**EXT.P6 : TRUE COPY OF THE SITE MAHASSAR PREPARED BY THE SUB
ENGINEER, KSEB, ELOOR DIVISION WHO CONDUCTED THE
INSPECTION DATED 30.11.2013.**

**EXT.P7 : COPY OF THE FINAL REPORT IN CC 1314/14 DATED 19.12.2013
ON THE FILE OF JFMC, N.PARAVUR.**

RESPONDENT(S)' EXHIBITS :

NIL

/TRUE COPY/

PA TO JUDGE

VS

V.CHITAMBARESH, J

W.P.(C).No.18337 of 2015

Dated this the 18th day of June, 2015

JUDGMENT

Ext.P5 order imposing penalty in terms of Section 126 of the Electricity Act, 2003 is impugned. The petitioners contend that only the third respondent tenant could be mulcted with the liability for misuse of electrical energy. The Electricity Board on the other hand maintains that the first petitioner being the registered consumer can as well be proceeded against.

2. The terms of the lease arrangement between the petitioners and the third respondent is a matter for deeper probe. Whether the liability could be shifted to the third respondent exclusively is a matter for evidence. All these can be thrashed out in an appeal under Section 127 of the Electricity Act, 2003.

3. The petitioner has an effective alternative remedy to impugn Ext.P5 order. Any appeal filed within one month from today shall be dealt within two months

from today. No further directions are warranted in the circumstances.

The Writ Petition is disposed of.

Sd/-
V.CHITAMBARESH
JUDGE

VS