

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

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

WP(C).No. 23789 of 2013 (W)

PETITIONER(S) :

SEEMA S.,
AGED 52 YEARS, W/O.A.YAHIA,
KIZHAKKE THAIVELIKAKAM,
VALIYAKULAM JUNCTION,
THRIVAMBADI P.O., ALAPPUZHA,
PIN - 688 002.

BY ADVS.SRI.SHINU J.PILLAI
SRI.SACHIN JOSEPH
SMT.S.SUJA.

RESPONDENT(S) :

1. THE ASSISTANT EXECUTIVE ENGINEER,
ANTI-POWER THEFT SQUAD,
KERALA STATE ELECTRICITY BOARD, THIRUVALLA,
PIN - 689 641.
2. THE ASSISTANT ENGINEER,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL SECTION,
ALAPPUZHA SOUTH, ALAPPUZHA,
PIN - 688 008.
3. THE DEPUTY CHIEF ENGINEER,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL CIRCLE,
PATHANAMTHITTA, PIN - 689 645.

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

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

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXHIBIT P1 COPY OF THE SPOT BILL ISSUED BY KSEB.

EXHIBIT P2 COPY OF THE FIR ALONG WITH THE MAHASAR IN CRIME
NO.261 OF 2013.

EXHIBIT P3 COPY OF THE PROVISIONAL BILL DATED 14/2/2013 ISSUED
BY THE 2ND RESPONDENT.

EXHIBIT P4 COPY OF THE ORDER DATED 22/2/2013 ISSUED BY THE 2ND
RESPONDENT.

EXHIBIT P5 COPY OF THE FINAL BILL ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P6 COPY OF THE APPEAL DATED 2/3/2013.

EXHIBIT P7 COPY OF THE ORDER DATED 2/8/2013.

EXHIBIT P8 (A) COPY OF THE LETTER DATED 21/01/2014.

EXHIBIT P8 (B) COPY OF THE LETTER DATED 22/01/2014.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.23789 of 2013

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Dated this the 9th day of February, 2015

JUDGMENT

Exts.P4 and P5 by which the second respondent directed the petitioner to remit some amount arrived at on the basis of the best judgment assessment under Section 126 of the Electricity Act are under challenge.

2. The petitioner was running a printing press with SSI registration from 1994 onwards in the name and style “Chakky Printers” at Valiyakulam junction, Alappuzha. The petitioner's unit was provided with service connection by the respondent board. The petitioner alleges that during the last quarter of 2012, the press was not functioning due to non-availability of experienced staffs. While matters stood so pursuant to the request of occupants of the adjoining building, spaces were

provided temporarily for a cycle shop, document writer's office and a nursing clinic in the said building where the petitioner's unit were functioning; it is alleged. The petitioner further alleges that those persons were not allowed to consume electricity for running their business.

3. On 13.2.2013, the first respondent along with certain officers of the respondent board visited the petitioner's unit and issued Ext.P4 and P5 imposing certain amounts to be paid by the petitioner alleging that the petitioner was using the electricity for the purpose other than for which the usage of electricity was authorised. This was on the basis of the best judgment assessment under Section 126 of the Act. It is with this background, the petitioner has approached this Court.

4. Today when the matter came up for hearing, the learned counsel for the petitioner submitted that as directed by the respondent board, the petitioner has remitted the entire amount

and there is no surviving cause of action. It was also submitted that what now remains is only a criminal case, registered against the petitioner.

As there is no surviving cause of action so far as the writ petition is concerned, the writ petition is closed reserving the right of the petitioner to take all available defenses in the criminal proceedings now pending against him.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

krj