

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 7TH DAY OF DECEMBER 2015/16TH AGRAHAYANA, 1937

WP(C).No. 25955 of 2010 (T)

PETITIONER(S) :

**M/S. ESSAR TELECOM INFRASTRUCTURE (P) LTD.,
36/2624, FIRST FLOOR, CHERAMANGALATHU HOUSE,
SHENOY ROAD, COCHIN- 682 017,
REPRESENTED BY, DEPUTY MANAGER (LEGAL & ACQUISITION),
MR.BABU PATTATHANAM.**

**BY ADVS.SRI.SANTHOSH MATHEW
SRI.SATHISH NINAN
SRI.ARUN THOMAS**

RESPONDENT(S) :

- 1. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VYDYUTHIBHAVANAM,
THIRUVANANTHAPURAM, PIN- 695 001.**
- 2. THRISSUR MUNICIPAL CORPORATION,
THRISSUR, REPRESENTED BY ITS SECRETARY, PIN- 680 001.**
- 3. THE ASSISTANT ENGINEER, SECTION II,
ELECTRICITY DEPARTMENT, THRISSUR MUNICIPAL
CORPORATION, PIN- 680 001.**
- 4. THE KERALA STATE ELECTRICITY
REGULATORY COMMISSION, VELLAYAMBALAM
THIRUVANANTHAPURAM REPRESENTED BY IT'S CHAIRMAN,
PIN- 695 001.**

R1 & R3 BY ADV. SRI.P.P.THAJUDEEN, S.C, K.S.E.B

R2 BY ADV. SRI.K.B.MOHANDAS

ADVS. SRI.K.P.VIJAYAN

SRI.V.M.SYAM KUMAR

SMT.KRIPA ELIZABETH MATHEWS

SRI.V.N.HARIDAS

R4 BY ADV. SRI.P.NANDAKUMAR, S.C

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 07-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: PHOTOCOPY OF THE OCCUPANCY CERTIFICATE DATED 15.04.2008
ISSUED TO THE PETITIONER.

EXHIBIT P2: PHOTOCOPY OF THE PERMISSION ORDER NO.B2/1504/2009/EIR
DATED 28.04.2009 ISSUED TO THE PETITIONER.

EXHIBIT P3: PHOTOCOPY OF THE RECEIPT DATED 11.10.2009 ISSUED TO
THE PETITIONER.

EXHIBIT P4: PHOTOCOPY OF THE NOTICE DATED 23.03.2010 ISSUED TO
THE PETITIONER BY 3RD RESPONDENT.

EXHIBIT P5: PHOTOCOPY OF THE REQUEST DATED 14.07.2010 ISSUED TO
THE PETITIONER.

EXHIBIT P6: PHOTOCOPY OF THE CALCULATION STATEMENT FOR AMOUNT TO
PAY RS.1,08134/- ISSUED TO THE PETITIONER.

EXHIBIT P7: PHOTOCOPY OF THE BOARD ORDER NO.G.O.(FO)NO.46/2003
(PLG.COM4206/01) DATED 15.01.2003.

EXHIBIT P8: PHOTOCOPY OF THE BOARD ORDER NO.DPC1/C-182/2007
NO.368/2008 DATED 07.02.2008 ISSUED BY 1ST RESPONDENT.

EXHIBIT P9: TRUE COPY OF THE JUDGMENT DATED 10.02.2006 IN
O.P.NO.26408/2000 BEFORE THE HON'BLE HIGH COURT OF
KERALA.

EXHIBIT P10: THE PHOTOCOPY OF THE JUDGMENT IN R.P.NO.974/2006 IN
O.P.NO.26408/2000.

EXHIBIT P11: PHOTOCOPY OF THE INTERIM ORDER DATED 09.07.2010 IN
W.P.(C).NO.21396 OF 2010 ON THE FILE OF THE HON'BLE COURT.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.S.TO JUDGE.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.25955 OF 2010 (T)

Dated this the 7th day of December, 2015

J U D G M E N T

The writ petition was filed challenging Ext.P4 notice issued by the 3rd respondent Corporation imposing a penalty on the petitioner alleging unauthorised usage of additional load of 5KW. It is submitted that, during the pendency of the writ petition, the matter has been settled between the petitioner and the 2nd and 3rd respondents through mediation. The mediation settlement agreement records the terms of settlement as follows:

1. The petitioner and respondents 2 & 3 have settled the entire disputes between the parties and also agreeing that no further relief is required from the respondent 1 & 4 in view of this settlement.
2. The original Writ petition is filed challenging Ext.P4 notice dated 23.03.2010 issued by the 3rd respondent corporation, imposing penalty of Rs.1,08,134/- (Rupees One Lakh Eight Thousand One Hundred and Thirty Four only) alleging unauthorised additional load of 5KW against the petitioner (consumer No.14249.B). The respondent corporation made a proposal to settle the entire liability of

the petitioner by paying an amount of Rs.43,254/- (Rupees Forty Three Thousand Two Hundred and Fifty Four only), which the petitioner has already paid an amount of Rs.36,045/- (Rupees Thirty six thousand and Forty Five only) by Demand Draft No.542075 dated 31.08.2010 of SBT, A/c. The balance due as on today is Rs.7,209/- (Rupees Seven Thousand Two Hundred and Nine only) .

3. The petitioner agrees that the said amount of Rs.7,209/- (Rupees Seven Thousand Two Hundred and Nine only) in full will be paid on or before 30.11.2015 as full and final settlement of the entire claim against the petitioner company.

4. In case any default is committed by the petitioner, the second and third respondents will be at liberty to recover the same together with interest in accordance with law and subject to the provision of Electricity Act.

5. In view of the above settlement, the petitioner has no claim against the respondents 1 & 4 and hence no further relief is required by the petitioner.

6. The parties agree to request this Hon'ble Court to record the above Memorandum of Agreement/Settlement and dispose of the case above.

Resultantly, the writ petition is closed, by recording the terms of settlement arrived at between the petitioner and respondents 2 and 3.

The submission of counsel for the petitioner that he is not seeking any reliefs against respondents 1 and 4, is also recorded.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/8/12/15