

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937

WP(C).No. 27008 of 2015 (A)

PETITIONER :

**DR. ABDUL MUNEER, AGED 50 YEARS,
MANAGING PARTNER, NAHA'S HOSPITAL, PARAPPANANGADI.**

**BY ADVS.SRI.K.P.SUDHEER
SRI.ARUN MATHEW VADAKKAN**

RESPONDENTS :

- 1. KERALA STATE ELECTRICITY BOARD
REPRESENTED BY ITS SECRETARY, BOARD SECRETARIAT,
VYDHYUTHI BHAVAN, THIRUVANANTHAPURAM - 695 001.**
- 2. THE ASSISTANT ENGINEER
ELECTRICAL SECTION, KSEB, PARAPPANANGADI - 676 303
MALAPPURAM DISTRICT.**
- 3. KERALA STATE ELECTRICITY APPELLATE AUTHORITY,
CC 51/52, NEAR 110 KV SUB STATION, VYTTILA
KOCHI - 682 019.**

**R1 TO R3 BY SRI.JAICE JACOB,SC,
R1 TO R3 BY ADV. SMT.P.KRADHIKA-KSEB**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: TRUE COPY OF PROCEEDINGS OF THE ELECTRICAL INSPECTOR,
MALAPPURAM NO.B1-3303/2010/EIM DATED 16.9.2010.
- EXT.P-2: TRUE COPY OF CERTIFICATE DATED 7.4.2011 ISSUED BY ELECTRICAL
INSPECTOR, MALAPPURAM.
- EXT.P-3: TRUE COPY OF INVOICE EVIDENCING PURCHASE OF TRANSFORMER
DATED 6.10.2011.
- EXT.P-4: TRUE COPY OF MAHAZAR PREPARED BY THE SUB ENGINEER,
PARAPPANANGADI DATED 10.10.2011.
- EXT.P-5: TRUE COPY OF NOTICE NO.BB/UAL/11-12/370 DATED 14.10.2011
ISSUED BY THE 2ND RESPONDENT DEMANDING A SUM OF
RS.4,77,075/-
- EXT.P-6: TRUE COPY OF ORDER NO.BB/UAL/11-12/447 DATED 6.12.2011 ISSUED
BY THE 2ND RESPONDENT.
- EXT.P-7: TRUE COPY OF INTERIM ORDER DATED 23.12.2011 IN WPC
NO.34854/2011 PASSED BY THIS HON'BLE COURT.
- EXT.P-8: TRUE COPY OF RECEIPT DATED 6.1.2012 ISSUED BY KSEB,
PARAPPANANGADI FOR AN AMOUNT OF RS.1,19,270/-
- EXT.P-9: TRUE COPY OF JUDGEMENT DATED 17.3.2015 IN WPC NO.34854/2011
PASSED BY THIS HON'BLE COURT.
- EXT.P-10: TRUE COPY OF APPEAL EXCLUDING ANNEXURE DATED 17.6.2015
FILED BY THE PETITIONER BEFORE THE THIRD RESPONDENT.
- EXT.P-11: TRUE COPY OF COMMUNICATION NO.AA/GEN/15-16 DATED 5.8.2015
ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER.
- EXT.P-12: TRUE COPY OF RECEIPT DATED 20.8.2015 FOR RS.4,771/- ISSUED BY
THE 2ND RESPONDENT.
- EXT.P-13: TRUE COPY OF APPLICATION TO ACCEPT APPEAL ON FILE DATED
10.8.2015 SUBMITTED BY THE PETITIONER BEFORE THE THIRD
RESPONDENT

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.27008 of 2015

.....
Dated this the 8th day of September, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P11 order passed by the 3rd respondent appellate authority pursuant to Ext.P9 judgment of this Court. By Ext.P9 judgment, a Division Bench of this Court had relegated the petitioner in the writ petition to move a statutory appeal before the competent appellate authority. The appellate authority was also directed to decide the appeal, and it was made clear in the said judgment that the interim order granted by this Court in the writ petition on 23.12.2011, and extended until further orders on 24.02.2012, would continue to govern the parties till such time as the appellate authority decided the appeal. Ext.P11 is an order passed by the appellate authority pursuant to Ext.P9 judgment of this Court. In Ext.P11 order, the appellate authority has taken a stand that the appeal preferred by the petitioner in accordance with the directions in Ext.P9 judgment could not be entertained in the absence of a deposit of 50% of the assessed amount as per the final assessment order, as contemplated under the Electricity Act, 2013. It is this stand of the appellate authority in Ext.P11 order that is impugned in the writ petition.

2. I have heard the learned counsel for the petitioner and the learned Standing counsel for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that inasmuch as in Ext.P9 judgment, this Court, while relegating the petitioner to the appellate remedy under the Electricity Act, had also directed that the benefit of the interim order granted in the writ petition would continue to govern the parties till such time as the appellate authority decided the appeal, the stay against recovery, which was granted by this Court in the writ petition, would mandate that the appellate authority consider the appeal without insisting on any further payment, of amounts that were finally assessed against the petitioner, as a condition for maintaining the appeal. Accordingly, I quash Ext.P11 order of the 3rd respondent appellate authority and direct the said authority to accept the appeal filed by the petitioner on record and dispose the same on merits within a period of three months from the date of receipt of a copy of this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns