

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

WP(C).No. 28306 of 2015 (K)

PETITIONER(S):

**K.M. SAFIYA AGED 69 YEARS
W/O.P.K.M.ABDUL KADER, DEPUTY REGISTRAR, RTD
HIGH COURT OF KERALA, SHAFI MANZIL, LFC ROAD
KALOOR, COCHIN 17.**

BY ADV. SMT.MARY RANZOM LOUIZ

RESPONDENT(S):

- 1. THE KERALA STATE ELECTRICITY BOARD
ELECTRICAL SECTION, KALOOR, COCHIN 17
682 017.**
- 2. THE ASSISTANT ENGINEER
KERALA STATE ELECTRICITY BOARD, ELECTRICAL SECTION
KALOOR, COCHIN 17, 682 017.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
17-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 28306 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE BILL DATED 31.1.2014.

EXHIBIT P2. COPY OF THE SHORT ASSESSMENT BILL DATED 31.1.2014.

EXHIBIT P3. COPY OF THE OBJECTION DATED 24.2.14.

EXHIBIT P4. COPY OF THE ORDER DATED 22.6.15.

RESPONDENT'S EXHIBITS:-

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 28306 of 2015

Dated this the 17th day of September, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P4 order of the 2nd respondent, whereby the 2nd respondent has rejected an objection preferred by the petitioner against Ext.P1 bill seeking to recovery the amounts short assessed on the petitioner for the period from June 2008 to February 2011.

2. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing 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, in Ext.P3 objection, that was preferred by the petitioner against Ext.P1 bill, the petitioner clearly indicated that the demand made in respect of the period from 2008 to 2011 was barred by limitation inasmuch as Section 56(2) of the Electricity Act 2003, clearly mandates that any sum due from a consumer in terms of the Section could not be recovered after the period of two years from the date when such sum became first due. In Ext.P4 order, that was passed by the 2nd respondent, considering the objections of the petitioner, there is no

reference, whatsoever, to the contention of the petitioner with regard to the time barred bill, that was served on him. It is apparent therefore that, Ext.P4 order suffers from a non-application of mind by the 2nd respondent. Accordingly, I quash Ext.P4 and direct the 2nd respondent to reconsider Ext.P3 objection preferred by the petitioner and pass a fresh order adverting to the aspect of limitation, that was urged by the petitioner before him. The 2nd respondent shall pass consequential orders, within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE