

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO.521 OF 2016.

Darissa Builders Private Limited A
Private Limited Company registered
under the Companies Act, 1956
Through its Director Mr. I P. D'Mello
Regd Office:Plot No. 349, 33rd Road
TPS III, Bandra, Mumbai 400 050 Petitioner.

Versus

1. The Assistant Engineer(com),
S/D III(R), Electricity Dept. of
Goa, 2nd Floor, Vidyut Bhavan,
Division VI, Ansabhat, Mapusa,
Bardez, Goa 403 507.
3. Executive Engineer, Electricity
Dept of Goa, 2nd Floor, Vidyut
Bhavan, Division VI, Ansabhat,
Mapusa, Bardez Goa 403507. Respondents.

Shri V. A. Lawande, Advocate for the petitioner.

Shri V. Sardesai, Additional Government Advocate for the
respondents.

Coram:-F. M. REIS AND
NUTAN D. SARDESSAI,JJ.

Date: 6th May,2016.

ORAL JUDGMENT (Per F. M. REIS, J)

Heard Shri V. A. Lawande, learned Counsel appearing
for the petitioner and Shri V. Sardesai, learned Addl. Govt.
Advocate appearing for the respondents.

2. Rule.

3 Heard forthwith with the consent of the learned Counsels appearing for the respective parties.

4. Shri V. Sardessai, learned Addl. Govt. Advocate waives notice on behalf of the respondents.

5. The main grievance of Shri Lawande to the impugned demand by the respondents dated 13.4.2016 is that though the objections were filed by the petitioner on 7.4.2016, no personal hearing was given to the petitioner before the impugned demand came to be passed. The learned Counsel has further pointed out that some of the documents which were relied upon whilst passing the provisional demand were furnished to the petitioner only at the time of passing of the final order.

6. Shri V. Sardessai, learned Counsel, however disputes the said contention and pointed out that adequate opportunities were given to the petitioner to submit his stand. The learned Additional Government Advocate further points out that a sum of 17,79,432/- is payable by the petitioner to the respondent no.1 on account of the electricity dues.

7. Without going into the rival contentions as stated herein above, we find that it is not disputed that before passing the impugned demand a hearing was not given to the petitioner based on the objections raised by the petitioner. In such circumstances, we find that the respondents be directed to take a fresh decision on the said final demand after hearing the petitioner subject to some deposit.

8. As such, we pass the following order:-

ORDER

- (i) The petitioners are as such directed to pay to the respondent no.1 a sum of ₹5,94,000/- on or before 10.5.2016.
- (ii) The petitioners shall deposit a further sum of ₹1,00,000/- on or before 20.5.2016.
- (iii) After such amounts are paid the respondents are directed to give a fresh hearing to the petitioner in connection with the impugned demand dated 13.4.2016 and take a fresh decision in connection with such demand.
- (iv) The amount deposited shall be subject to such final decision in terms of this order.
- (v) The impugned demand dated 13.4.2016 shall be

subject to such final decision and stand modified accordingly.

- (vi) Needless to say that the impugned demand dated 13.4.2016 will not be implemented until fresh decision is taken thereof.
- (vii) All the contentions of both the parties on merits are left open.
- (viii) Rule is made absolute in the above terms.

NUTAN D. SARDESSAI J.

F. M. REIS, J.

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