

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.1013 OF 2016
IN
WRIT PETITION NO.11377 OF 2015**

**M/s. NRC Ltd
Village Mohane, Tal. Kalyan Dist. Thane : Applicant**

In the matter between

**Maharashtra State Electricity
Distribution Company Ltd.
(MSEDCL)
Through its Superintending Engineer
Cirlce-I, Kalyan : Petitioner**

**versus
M/s. NRC Ltd.
Village Mohane, Tal. Kalyan Dist.Thane
and ors. : Respondents.**

Mr. A V Anturkar, Senior Advocate a/w Mr. Kapil Moye, Mr. Chaitanya Chavan, Ms. Rashmi Salian, and Ms. Krishma Agarwal i/by Vigil Juris for the Applicant i.e. original Respondent No.1 in Writ Petition.

Mr. Kiran Gandhi a/w Mr. Nirav Shah and Mr. Anuj Jaiswal i/by Little & Co. for the original Petitioner and the Respondent in the above Civil Application.

**CORAM : R. M. SAVANT, J.
DATE : 22nd April 2016**

P.C.

**1 The above Civil Application has been filed for the following
reliefs :-**

**“(a) That pending the hearing and final disposal of the
present petition, the Petitioner be directed not to take**

any coercive measures for recovery of Rs.1,79,74,074/- along with the interest accrued thereon."

2 However, though the Civil Application as originally filed was for the aforesaid relief, by filing an additional affidavit the disconnection of the electricity supply is pointed out and reconnection of the electricity supply is now sought. Hence the main relief sought now is of reconnection of the electricity supply. On behalf of the Respondent herein i.e. the original Petitioner MSEDCL an affidavit in reply of one Shri Kishor S Pardeshi, Superintending Engineer of MSEDCL is filed opposing the said relief. The said dis-connection is on account of non-payment of the amount of Rs.5,81,35,070/- pursuant to an assessment which took place under Section 126 of the Indian Electricity Act 2006 (for short "the Electricity Act, 2003). The subject matter of the above Petition is the refund of the 2% voltage surcharge as directed by the Consumer Grievance Redressal Forum (CGRF) which is confirmed by the electricity Ombudsman by directing the original Petitioner to pay interest on the refund amount from June 2003. The above Petition has been admitted and is pending hearing and final disposal and the original Petitioner has been directed to deposit an amount of Rupees 1 Crore 82 Lacs in this Court which the original petitioner has accordingly deposited in this Court. Hence the subject matter of the above Petition has nothing to do with the actual relief sought by way of the above Civil Application which is the relief of re-connection of the electricity supply which has been disconnected on

account of the fact that the amount as assessed under Section 126 of the said Act has not been paid.

3 It is required to be noted that prior to the above Civil Application the Petitioner had filed a Writ Petition in this Court being Writ Petition No.181 of 2014 challenging the said assessment made under Section 126 of the Electricity Act 2003. In the said Writ Petition, a prayer was made that this Court exercise its writ jurisdiction under Article 226 of the Constitution of India, though an alternate remedy by way of an Appeal under Section 127 of was available against the assessment made under Section 126 of the Electricity Act 2003, a learned Single Judge of this court (A.K.Menon, J.) this Court in the facts of the present case declined to do so and accordingly dismissed the Petition on the ground that the Applicant herein i.e. NRC can file an Appeal under Section 127 of the Electricity Act, 2003. The said order dated 21/09/2015 passed by the learned Single Judge was carried to the Apex Court by way of an SLP being No. 31176 of 2015. The Apex Court by its order dated 16/11/2015 has dismissed the SLP, however, the Applicant herein who was the Petitioner before the Apex Court was granted two weeks time to take all necessary steps in accordance with law before the appropriate forum for appropriate relief. Even after the said SLP was dismissed, another Petition being Writ Petition No.11661 of 2015 was filed before a Division Bench of this Court. This time the Applicant i.e. the Petitioner in the said Writ Petition

No.11661 of 2015 challenged the vires and/or constitutional validity of subsection (1) of Section 127 of the Electricity Act, 2003. A Division Bench of this Court (Coram : A.S.Oka & G.S.Patel, JJ) did not entertain the said Petition in the background facts as afore-stated and dismissed the said Petition.

4 The above Civil Application and the relief now sought therein is therefore an attempt to circumvent the order passed by a learned Single Judge of this Court as confirmed by the Apex Court as also the order passed by the Division Bench of this Court. Apart from that, the subject matter of the above Civil Application being re-connection of the electricity supply to the residential and commercial complex of the Applicant has nothing to do with the subject matter of the above Writ Petition. The above Civil Application is therefore misconceived, hence no relief can be granted in the above Civil Application. The above Civil Application is accordingly rejected.

[R.M.SAVANT, J]