

(1)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 7869 of 2017
WITH
CIVIL APPLICATION No. 729 of 2013
IN/WITH
WRIT PETITION NO. 6703 of 2012

Wockhardt Limited

...PETITIONER

VERSUS

The Maharashtra State Electricity Distribution
Company Limited and another

...RESPONDENTS

Mr S.V. Adwant, Advocate for applicant
Mr S.M. Godse, Advocate for respondent No.1
Mr A.S. Bajaj, Advocate for respondent No.2.

CORAM : NITIN W. SAMBRE, J.

DATE : 7th November, 2017

ORAL ORDER :

Heard learned Counsel Shri Adwant for the applicant. He submits that though the petition is admitted pending final hearing, the respondents are including the delayed payment charges and interest towards the energy bill.

2. In response to the same, learned Counsel Shri Godse for respondent No.1, upon instructions, submits that the inclusion of

(2)

delayed payment charges and interest is only for the purpose of calculation and there is no actual insistence from respondent No.1 for making payment of such demand. According to him, said amount will be claimed from the petitioner subject to outcome of petitioner after petition is decided on merit. He would add that what is recovered and paid by the petitioner is actual bill raised, irrespective of the delayed payment charges and interest. Mention of delayed payment charges and interest in the bill raised to the petitioner, was by way of procedure and the same was never demanded or insisted. Rather, the benefit for which petitioner was entitled for timely payment, was extended to.

3. In view of aforesaid statement made by learned Counsel Shri Godse, on instructions, present application stands disposed of, with liberty to petitioner to move afresh, if any subsequent development or occasion arises.

4. Petitioner has questioned order of Electricity Ombudsman, and there is interim relief granted in favour of petitioner subject to payment of Rs. two crores in this Court, which amount is sought to be withdrawn by respondent No.1-Maharashtra State Electricity Distribution Co. Ltd.

(3)

5. Learned Counsel Shri Adwant for the original petitioner strenuously opposed the prayer for withdrawal, on the ground that there are chances of petitioner in getting succeeded in the petition. He would submit that if the petition is allowed, it would be difficult to recover the said amount from the respondent company. He sought dismissal of the application with a prayer that the amount be invested in fixed deposit with any nationalized bank, or in alternate, the petitioner be permitted to hold the amount in trust.

6. Considered objections raised by learned Counsel Shri Adwant for the petitioner to the prayer made by respondent M.S.E.D.C.L. seeking for withdrawal of the amount.

7. The claim of the petitioner is already adjudicated and pursuant thereto liability is fastened on the petitioner. The petitioner is enjoying interim relief subject to deposit of the amount, which is based on the energy consumption, as is assessed against it, which is subject matter of challenge in the petition.

8. The respondent/Maharashtra State Electricity Distribution Company Ltd., pursuant to the order, which is questioned, prima-facie, in my opinion, is entitled to withdraw the

(4)

amount, particularly, when such amount is directed to be deposited by the petitioner in part compliance of the order impugned as original petitioner is enjoying interim relief from this Court. However, such withdrawal cannot be allowed by a blanket order.

9. As such, respondent No.1 to the petition i.e. applicant in Civil Application No. 729 of 2013 for withdrawal of the amount, is permitted to withdraw amount of Rs. 2,00,00,000/- (Rs. Two crores only), deposited in this Court, subject to furnishing bank guarantee from any nationalized bank.

10. With above observations, application for withdrawal of the amount stands allowed in terms of Prayer Clause "B".

(NITIN W. SAMBRE, J.)

pjm