

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

**WRIT PETITION (ST) NO.11838 OF 2017**

Mrs. Ruksana Islam Bhati

..Petitioner

Vs.

The State of Maharashtra & Anr.

..Respondents

Ms. Ratna R. Jaiswal for the Petitioner.

Mrs. Sataish Kamat for the Respondent No.1.

Mr. S. L. Babar, AGP for the Respondent/State.

**CORAM: V.M. KANADE &  
C. V. BHADANG, JJ.**

**APRIL 28, 2017.**

**P.C.**

. The challenge in this petition is to the order dated 4/4/2017 passed by the second Respondent under section 135 of the Electricity Act, 2003 ('Act' for short). By the impugned communication the second respondent has levied an amount of Rs.2,53,647.82/- as assessment for the loss of electricity charges along with compounding charges of Rs.22,000/- as per section 152 of the Act.

2. It appears that the second Respondent has released an electricity connection at Flat No.602, 6<sup>th</sup> floor, A-Wing, Prathmesh Kutir Co-operative Housing Society Ltd. Jogeshwari, Mumbai belonging to the Petitioner. The second Respondent made an inspection of the electricity meter on 3/4/2017 in which the Petitioner was found to have obtained direct supply from the supply services cable. Accordingly, an inspection report was drawn which is signed by Mr.Inam Islam Bhati, who is the son of the Petitioner. On finding unauthorized drawal of electricity supply, the aforesaid assessment has been made by the second Respondent.

3. We have heard the learned counsel for the Petitioner and the learned counsel appearing for the second Respondent, which is alone the contesting Respondent.

4. It is submitted by the learned counsel for the Petitioner that the Petitioner has not obtained any unauthorized supply as claimed. The inspection report is not signed by the Petitioner but, by the son of the Petitioner, who was not aware of the nature of the inspection carried out. It is submitted that the impugned communication/assessment is by way of a provisional assessment order and the second Respondent is yet to decide on the final assessment and as such could not have disconnected the supply or claimed the amount along with the compounding charges.

5. On the contrary, it is submitted by the learned counsel for the second Respondent that the inspection report which is signed on behalf of the petitioner clearly demonstrates unauthorized drawal of electricity energy by the Petitioner. Learned counsel submitted that the Petitioner has accepted the said aspect and it is submitted that the assessment made as per section 135 of the Act, is legal and proper.

6. We have carefully considered the rival circumstances and submissions made and in our view no case for interference is made out. The officers of the second Respondent on the basis of inspection conducted on 3/4/2017 had found that a direct supply was taken from the supply service cable and according to the second respondent it is a case of theft of electricity u/s.135 of the Electricity Act. Although the Petitioner seeks to challenge the inspection report, we find that this aspect cannot be gone into as it involves disputed questions of fact.

7. The communication dated 4/4/2017 shows that it is a provisional assessment order levying electricity charges and also indicating compounding charges which are payable by the Petitioner. The said demand is made without prejudice to the final assessment being made. Thus, the Petitioner can deposit the said amount without prejudice to her rights subject to the petitioner taking recourse to appropriate remedy, if any, available under law.

8. In the circumstances, we decline to entertain the Petition which is accordingly dismissed.

**(C. V. BHADANG, J.)**

**(V.M. KANADE,J.)**