

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

**CIVIL APPLICATION NO.1557 OF 2016
IN
WRIT PETITION NO.11377 OF 2015**

**Maharashtra State Electricity
Distribution Company Limited
Through Superintending Engineer : Applicant.**

In the matter between

**Maharashtra State Electricity
Distribution Company Limited
Through Superintending Engineer : Petitioner.
versus
NRC Limited and ors. : Respondents.**

**Mr. Nirav Shah i/by Little & Co. for the Applicant/Petitioner.
Ms. Karishma Agarwal i/by Vigil Juris for the Respondent No.1.**

**CORAM : R. M. SAVANT, J.
DATE : 13th January 2017**

P.C.

1 The above Civil Application has been filed by the Maharashtra State Electricity Distribution Company Limited ("MSEDCL" for short) for the following relief :-

(a) This Hon'ble Court may allow the Applicants to withdraw the amount of Rs.1,82 Crores alongwith accrued interest thereon deposited pursuant to the order dated 8th February, 2016 of this Hon'ble Court."

The said amount of Rs.1.82 Crores has been deposited by the

Applicant/Petitioner in this Court pursuant to the order dated 08/02/2016 as a condition for grant of stay in terms of prayer (b). The said amount was required to be refunded to the Respondent to the original Petition i.e. the National Rayon Corporation Limited ("NRC Limited" for short). However, the Respondent NRC Limited owes outstanding dues in the range of more than Rs.10 crores to the MSEDCL. Hence the Applicant/Petitioner has filed the above Civil Application for being permitted to withdraw the said amount of Rs.1,82 crores as the same can be appropriated against the outstanding dues from the Respondent NRC Limited.

2 The Respondent NRC Limited filed an undertaking with the Applicant/Petitioner as a condition for reconnection which undertaking contains in clause 8 which reads thus :-

"NRC will give NOC for withdrawal of amount by MSEDCL for Rs.1.82 Cr. Which is deposited by MSEDCL in High Court in CGRF Case No.916/2013"

The said stand of the Respondent - NRC has been reiterated in the affidavit in reply filed on behalf of the Respondent No.1 NRC Limited by one Jayant H Killedar dated 01/09/2016. The paragraph 6 of the said affidavit in reply is relevant and reads thus :-

"6 The Respondent No.1 has no objection to the Petitioner withdrawing this deposited amount of Rs.1,82,00,000/- provided that :-

(a) the said amount of Rs.1,82,00,000/- and interest

thereon is not claimed or shown as outstanding in the subsequent bills by Applicants pending the hearing and final disposal of this Petition.

- (b) The Applicants to make a statement that they will not levy any further interest on the said amount of Rs.1,82,00,000/-.”

Hence reading of the undertaking and the affidavit in reply of the Respondent No.1 NRC Limited makes it clear that the Respondent No.1 NRC Limited has no objection to the Applicant/Petitioner withdrawing the said amount of Rs.1.82 crores. However, the Respondent NRC Limited has made a request which is contained in paragraph 6 as extracted herein above.

3 In response to the same, the MSEDCL in paragraph 2 has stated that the MSEDCL will not levy any further interest on said amount of Rs.1,82 crores till pending the hearing and final disposal of the Petition as outstanding in the subsequent bills and the same will be reflected at the foot-note in the energy bill as disputed amount till pending the hearing and final disposal of the Petition. It is further stated that the further interest on Rs.1.82 crores accrued in electricity bill will be adjusted in future as would be directed by this Court.

4 Hence the request of the Respondent as per the averments made in paragraph 6 of the affidavit in reply has been met by the MSEDCL albeit and subject to the conditions mentioned therein. The above Civil Application is

accordingly allowed and made absolute in terms of prayer clause (a). The above Civil Application is accordingly disposed of.

[R.M.SAVANT, J]