

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No. 11879 OF 2017

Mr. Niyaz Ahamad Khan

...Petitioner

Versus

Maharashtra State Electricity Distribution Company

Ltd. And Ors.

...Respondents

Mr.Nandkumar V.Sawant, for the Petitioner.

Ms.Anjali R.S.Baxi, for Respondent Nos.1 to 3.

**CORAM : SHANTANU KEMKAR &
G. S. KULKARNI, JJ.**

DATE : NOVEMBER 16, 2017

P.C.:

Challenge in the petition is to the electricity theft bill dated 17th October,2017 in respect of the electricity connection bearing consumer No.021520308714 situated at Plot No.W-49(E), Addl.MIDC, Anand Nagar, Ambarnath (E), issued by respondent no.3 alleging therein that theft of electricity has been committed by the petitioner which is amounting to Rs.43,03,493/-.

2. According to the petitioner for the alleged theft, the petitioner's electricity is cut since 13 October 2017 resulting in huge financial loss to the petitioner. He submits that in view of the provision contained in Section 154(5) of the Electricity Act the maximum amount of civil liability recoverable apart from the sentence, is two times of the tariff rate applicable for a period of twelve months preceding the date of

detention of theft of energy or for the exact period of theft if determined whichever is less.

3. Learned Counsel for the petitioner submits that he is disputing the allegations levelled by the third respondent and also the calculation made in the bill. He submits that reserving the Petitioner's rights and contention to be taken before the Special Court, the petitioner is ready and willing to deposit an amount of Rs.25,00,000/- (Rupees Twenty Five lakhs only) under protest and on such deposit being made respondent no.3 be directed to reconnect the electricity meter and start supply of electricity to the petitioner's premises in question subject to the petitioner's giving an undertaking that the petitioner will pay the regular electricity bills on the due dates.

4. Having regard to the aforesaid and having considered the submissions made by the learned Counsel for the respondents, we are of the view that without going into the merits of the matter and the contentions of the parties which will be adjudicated by the Special Court, in the interest of justice, it will be appropriate to dispose of this petition by granting liberty to the petitioner to deposit Rs.25,00,000/- (Rupees Twenty Five lakhs only) under protest without prejudice to its rights and contentions to be raised and decided by the Special Court and on petitioner's submitting an undertaking before the third respondent that the petitioner shall regularly pay the electricity charges as per the demand of the respondents within the time as specified in the bills, the third respondent shall restore the electricity connection, which shall be subject to outcome of the decision as may be taken by the Special Court. We order accordingly.

5. With the aforesaid liberty and direction, the petition is disposed of. All contentions of the parties are kept open.
6. Parties to act on the authenticated copy of this order.

(G.S. KULKARNI, J.) (SHANTANU KEMKAR, J.)