psv

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12973 OF 2017

M/s Royal Aircon Private Ltd. & Anr. ..Petitioners
Vs.
Maharashtra State Electricity
Distribution Company Ltd. & Ors. ..Respondents

Mr.N.V. Sawant for Petitioners.
Mr.Kiran Gandhi i/b. M/s.Little & Co. for Respondent Nos.1 and 2.

CORAM : SHANTANU S. KEMKAR AND
G.S. KULKARNI, JJ.

DATE : 24th NOVEMBER 2017

P.C.:

Not on board. Taken on board as moved by Praecipe.

With consent of both the parties, heard finally.

2. Challenge in the petition is to the electricity theft bill dated 26th October,2017 in respect of the electricity connection bearing consumer No.011494070954 situated at Survey No.38/9, Vasuri (KH), Kudus Khanivali Road, Taluka Wada, District – Palghar, issued by respondent no.3 alleging therein that theft of electricity has been committed by the petitioner which is amounting to Rs.25,09,475.11.

3. According to the petitioner for the alleged theft, the petitioner's electricity is cut since 26th 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.

4. 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.15,00,000/- (Rupees Fifteen 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.

5. 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.15,00,000/- (Rupees Fifteen 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.

6. With the aforesaid liberty and direction, the petition is disposed of accordingly. All contentions of the parties are kept open.

7. Parties to act on the authenticated copy of this order.

[G.S. KULKARNI, J.] **[SHANTANU S. KEMKAR, J.]**