

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7793 OF 2017

M/s Balaji Stone Metals
Through its Proprietor
Shri Vikas Shivajirao Munde
Age 54 years, Occ. Business
and Agriculture, R/o Sangaon
Tq. Kaij, Dist. Beed.

..Petitioner

Versus

1. The Superintending Engineer,
Maharashtra State Electricity
Distribution Company Limited,
O & M Circle, Beed.

2. The Executive Engineer,
Maharashtra State Electricity
Distribution Company Limited,
O & M Circle, Ambajogai.

..Respondents

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Advocate for Petitioner : Shri Patil Sudhir D.
Advocate for Respondents : Shri Paithankar Prakash B.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: June 21, 2018
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ORAL JUDGMENT :-

1. Heard learned Advocates for the respective parties.
2. Rule.
3. By consent, Rule is made returnable forthwith and the

petition is taken up for final disposal.

4. The petitioner is aggrieved by the judgment and order of the Consumer Grievances Redressal Forum, Latur (Maharashtra State Electricity Distribution Company Ltd.) dated 3.3.2016 and by the order dated 9.11.2016 passed by the Electricity Ombudsman, Latur.

5. I have considered the strenuous submissions of the learned Advocate for the parties.

6. The contentions of the petitioner can be summarized as under:-

(a) The petitioner is an industry engaged in the business of stone crushing.

(b) On 11.9.2001, the respondent - company through its flying squad visited the petitioner's unit and noticed theft of electricity. The electricity connection was discontinued.

(c) The petitioner moved an application on 17.9.2001 to the then Superintending Engineer of the Electricity Board requesting for restoration of the electricity supply.

(d) It was alleged that a wrong bill of Rs.276775/- was raised by the electricity department.

(e) The petitioner preferred RCS No.315 of 2001 seeking mandatory injunction and restoration of the electricity connection.

(f) The suit was decreed on 24.8.2007 and the electricity department was directed to restore the electricity supply.

(g) The electricity department moved RCA No. 110 of 2008 before the appellate Court. Interim relief was refused.

(h) On 16.9.2012, the petitioner and the electricity company settled the dispute in Lok Adalat and RCA No.110 of 2008 was disposed off accordingly.

(i) On 7.7.2014, the petitioner approached the State Consumer Commission seeking compensation.

(j) The State Commission dismissed the application on the ground that the petitioner had obtained electricity connection on commercial basis and such supply for commercial use would not bring the petitioner within the ambit of a 'consumer' under Section 2(1)(d) of the Consumer Protection Act.

(k) Accepting the said decision, the petitioner

approached the Consumer Grievances Redressal Forum, Latur under the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 and also under MERC, SOP Regulation 2005 and 2014.

(l) By the judgment dated 3.3.2016, the CGRF dismissed the application filed by the petitioner on three grounds viz. (i) that the application in form 'A' was not maintainable, (ii) the CGRF did not have the jurisdiction to deal with the grievance and (iii) the application was not within limitation.

(m) The petitioner then approached the Electricity Ombudsman and the representation was rejected on 9.11.2016 on the ground that the proceedings are barred by limitation.

(n) Delay is of only 13 days and deserves to be condoned.

7. Learned counsel for respondents submits that the delay on the part of the petitioner in seeking compensation is of 7 years. The suit preferred by the petitioner was decreed on 24.8.2007, which gave the petitioner a cause of action to claim damages. The respondents were not granted any interim relief by the appellate Court. Despite this fact, the petitioner chose to keep quiet and did not put forth any claim for compensation on

account of the disconnection. On 6.9.2012, the petitioner amicable and voluntarily settled the dispute between the parties in the Lok-Adalat. It was specifically mentioned in the Lok-Adalat by this petitioner that he has arrived at a compromise with the electricity department to settle the matter. The said settlement is willingly arrived at. No force or coercion is exerted upon the petitioner. The purshis signed by this petitioner and his Advocate along with their counter parts dated 16.9.2012 was placed on record before the appellate Court, in which, this petitioner declared that the appellant / electricity board has reduced the bill amount, the petitioner has paid the entire reduced amount of the bill and as the electricity supply has been restored, the appeal may be legally disposed off.

8. In the presence of the parties the Lok-Adalat Panel comprising of three panel members and Chaired by the District and Sessions Judge, Ambajogai, verified the settlement between the parties and disposed off the appeal.

9. It is, therefore, strenuously submitted that the effort of the petitioner to calculate limitation from the date of the settlement in the Lok-Adalat is fallacious because the entire dispute was settled in the Lok-Adalat and there was no question of any

dispute pending between the parties. In the alternative, it is submitted that if this petitioner is not relying upon the decision of the Lok Adalat and desires to claim compensation for the disconnection of electricity on the basis of the decree of the trial Court dated 24.8.2007, then his claim for seeking compensation is barred by seven years. The petitioner has made a mischievous attempt to bye-pass these factors by contending that the delay is of only 13 days as he had approached a wrong forum.

10. Learned counsel for the petitioner submits that he is before this Court only with regard to the delay aspect and this Court should turn a blind eye to all other aspects and especially the issue of an amicable settlement between the parties before the appellate Court, when the appeal was disposed off.

11. I find that this contention of the petitioner is virtually an attempt to abuse the process of law. He claims compensation on the basis of the decree of the trial Court of 2007. He settles the dispute between the parties before the appellate Court on 16.9.2012 and does not reserve his right to seek compensation against the electricity board for the period of disconnection of electricity supply.

12. The electricity department had come in appeal before the appellate Court contending that the decree of the trial Court is perverse and erroneous. This petitioner made the department believe that the entire dispute is being put to rest by his pursis and hence the department sought disposal of the appeal in terms of the compromise. If the petitioner would have made it clear that he is not pardoning the department for illegal disconnection and would rest his claim for compensation / damages on the decree of the trial Court, the electricity department would have continued with the appeal, in which, they had prayed for the quashing and setting aside of the decree of the trial Court.

13. Considering the above factors, it was expressed in the open Court on 20.6.2018, after the submissions of the learned Advocates were over, that this Court is convinced that the petition deserves to be dismissed with costs and an opportunity can be granted to the petitioner to withdraw this petition. Time was granted, as per the request and today, learned Advocate for the petitioner submits, on instructions, that the petitioner does not desire to withdraw this petition.

14. In the light of the above, since this Court has come to a conclusion that the petitioner has attempted to abuse the process

of law, I am of the view that this petition deserves to be dismissed with imposition of costs. At this juncture, learned counsel for the respondent / Electricity Company submits that the costs can be donated to a humane cause.

15. In view of the above, this petition is dismissed. Rule is discharged.

16. The petitioner shall deposit an amount of Rs.25,000/- (Rs.Twenty Five Thousand only/-) with the Government Medical College and Hospital, Aurangabad on/or before 6.7.2018 and shall report compliance of this direction by producing a receipt of having deposited the amount, before the Registrar (J) of this Court on/or before 13.7.2018.

(RAVINDRA V. GHUGE, J.)

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