

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13691 OF 2018

Mr.Mahesh A. Dagli and Anr. ... Petitioners

Vs

Maharashtra State Electricity Distribution
Company Ltd. and Ors. ... Respondents

Ms.Lakshmi Murli a/w Ms.Shweta B. Kamble and Mr.Manthan Dagli i/b
Lakshmi Murli and Associates for the Petitioners.

Ms.A.R.S. Baxi for Respondent Nos.1 to 6.

**CORAM : S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.**

WEDNESDAY, 05TH DECEMBER, 2018

P.C. :

1 By this Writ Petition under Article 226 of the Constitution of India, the challenge is to the correctness, legality and validity of a bill which is raised in respect of the consumption of electrical energy and which calls upon the petitioners to pay a sum of Rs.5,08,167.63.

2 On such a Writ Petition, Miss.Baxi, learned advocate appearing on behalf of the respondents raised a preliminary objection

to its maintainability. The argument is that the Electricity Act, 2003 is a self contained Code. Once there is a dispute raised to the correctness of the bill, then, in terms of the legal provisions and particularly, in Section 42 sub-section (5) of the Electricity Act, 2003, persons like the petitioners can approach the Grievance Redressal Forum.

3 We have also noted Section 126 of the Electricity Act, 2003 and found that the authority can make an assessment to the best of his judgment of the electricity charges payable for consumption of electricity and in the event, the assessment is challenged, there is a forum available in terms of Section 127.

4 Looked at from any angle, the present Writ Petition raises a clear dispute on fact. The dispute is whether the petitioners were allotted identical consumer number as that of Mr.Ratilal Mankhedkar. That this number was not allotted to the petitioners, but to the said Ratilal and that Ratilal was allegedly in arrears of the electricity charges consumed at this premises, which according to the petitioners is no longer existing. That Ratilal's liability is illegally and erroneously foisted and thrust upon the petitioners are all disputed questions.

The petitioners have alternate efficacious remedy to question the assessment of the bill or the correctness of the bill raised on them. It is merely because a Writ Petition is brought, that the petitioners will not be able to overcome these remedies under the Electricity Act, 2003.

5 We are therefore inclined to uphold the preliminary objection raised to the maintainability of the Writ Petition.

6 However, Ms.Murli states that presently the petitioners are without electricity and it is impossible to continue to reside in the premises without this essential and basic amenity.

7 It is this argument which compels us to balance the rights and equities.

8 In the event, the petitioners deposit a sum to the extent of fifty per cent of Rs.5,08,167.63 with the respondents and within a period of four (4) weeks from today, then, without prejudice to the rights and contentions of both sides, let the electric supply to the petitioners' premises be restored. That would be subject to the outcome

of the proceedings that the petitioners will initiate and in the event, the petitioners fail to initiate the same within the aforesaid period, then, the entire sum together with interest, if any, would be recoverable from the petitioners and the respondents can take such measures as are permissible in law to recover the same.

9 The Writ Petition is disposed of by clarifying that this Court has not expressed any opinion on the rival contentions.

[SMT. BHARATI H. DANGRE]

[S.C. DHARMADHIKARI, J.]