

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2360 OF 2017**

Ranjana Shivdas Kale ... Petitioner
versus
The State of Maharashtra and Ors. ... Respondents

Ms. C.S.Gongane i/by Ms. Ratna Jaiswal, for Petitioner.
Mr. S.B.Gore, AGP, for Respondent No.1.
Mr. Satish Kamat, for Respondent No.2.

**CORAM: S.J. KATHAWALLA &
B.P.COLABAWALLA, JJ.
DATE: 9th JANUARY, 2020**

P.C.:

1. The Petitioner has not carried out the amendment i.e. substituting M/s. Reliance Infrastructure Ltd.' by 'Adani Electricity Company Ltd.'. However, the learned Advocate appearing for Respondent No.2 states that he is representing Adani Electricity Company Ltd. Amendment be carried out within one week from today. Reverification is dispensed with.

2. By the above Writ Petition, the Petitioner has prayed that the order dated 1st December, 2004 passed by the Respondent No.3 be quashed and set aside. The Petitioner filed an Appeal impugning the said order dated 1st December, 2004 before the Appellate Authority. The Appeal was dismissed on 4th November, 2009 since the Petitioner failed to deposit 50% of the claim amount. The Petitioner has also prayed that the order of the Appellate Authority dated 4th November, 2009 be set aside and

the Appellate Authority be directed to consider the said Appeal and dispose off the same on merits within a reasonable time.

3. We have perused the order dated 1st December, 2004. From the said order, it appears that on inspection of the installation under Section 126(1) of the Electricity Act, 2003, unauthorized use of electricity was detected on 25th October, 2004 in presence of the representative of the Petitioner and an intimation No.1608 dated 25th October, 2004 was issued in that behalf, which is acknowledged by the authorized representative of the Petitioner. The electricity company therefore provisionally assessed the liability of the Petitioner under Section 126(2) of the Act to the extent of Rs.1,07,003.27 (Rupees One Lac Seven Thousand Three and Twenty Seven Paise only) vide provisional assessment order No.VIG/PAO/SPJ/04-05/01163 dated 30th October, 2004 for the reasons set out therein. The Petitioner failed to file any objections against the aforesaid provisional assessment under Section 126(3) of the Act within 7 days from the receipt thereof and further failed to appear before the authority for personal hearing on 16th November, 2004. In view of this failure on the part of the Petitioner, a final assessment order dated 1st December, 2004 was passed calling upon the Petitioner to pay an amount of Rs.1,07,003.27 (Rupees One Lac Seven Thousand Three and Twenty Seven Paise only).

4. As stated above, the Petitioner has filed an Appeal challenging the said order dated 1st December, 2004. The said Appeal was dismissed by the Appellate Authority

on 4th November, 2009. The present Writ Petition is filed on 16th March, 2016 more than 13 years of the final order dated 1st December, 2004 seeking setting aside of the said order dated 1st December, 2004. On 20th August, 2017 the Writ Petition was amended and it was prayed that the order of the Appellate Authority dated 4th November, 2009 be quashed and set aside that is approximately nine years after the order of dismissal. In view thereof, it would not be appropriate to now entertain the Writ Petition and grant any reliefs in favour of the Petitioner by exercising our extraordinary jurisdiction under Article 226 of the Constitution of India. The Writ Petition is therefore, dismissed.

(B.P.COLABAWALLA, J.)

(S.J.KATHAWALLA, J.)