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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

903 WRIT PETITION NO.9245 OF 2023

ABDUL RAHMAN KHAN ARABI HASAN KHAN OWNER
OF SUPER ENTERPRISES
VERSUS
THE STATE OF MAHARASHTRA THROUGH POLICE
STATION WALUJ MIDC AND ANOTHER

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Mr M. M. Parghane, Advocate for Petitioner;
Mr V. M. Kagne, A.G.P. for Respondent No.1
Mr A. S. Bajaj, Advocate for Respondent No.2

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 8th August, 2023

PER COURT:

1. Leave to correct the description of Respondent No.2/
MSEDCL (Company). Correction be carried out forthwith.

2. On 31/07/2023, we had passed the following order :-

“1. The Petitioner is an Industrialist, who has directly approached this Court on account of a theft assessment under Section 135 of the Electricity Act, 2003 for an amount of Rs.14,70,460/-. The flying squad made a surprise visit to the factory and after noticing that the electricity meter was tampered, an assessment was made. The said amount is outstanding.

2. The learned Advocate for the Petitioner sought a pass over and submits on instructions that, the Petitioner

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would deposit an amount of Rs.3,50,000/- within one week from today. We are of the view, considering the law laid down in ***Shewalkar Developers Limited, Nagpur Vs. Rupee Cooperative Bank Limited, Pune and others, 2016 (1) AIR Bom. R 636 : 2016 (1) Mh.L.J. 382***, that, in such matters, at least 50% amount should be deposited.

3. We, therefore, record the statement of the Petitioner that he would deposit Rs.3,50,000/- with Respondent No.2, on or before 07/08/2023. We direct the Petitioner to deposit the further amount of Rs.4,00,000/- with Respondent No.2, on or before 17/08/2023.

4. The learned Advocate representing Respondent No.2 is requested by us to take instructions in this matter.

5. We are listing this petition in the 'passing orders' category on 08/08/2023, since the Petitioner would be depositing Rs.3,50,000/- with Respondent No.2, on or before 07/08/2023. If this installment is paid, we would list this petition on 18/08/2023, so that the Petitioner would deposit the further amount of Rs.4,00,000/-, prior thereto.

6. As such, no precipitative action be taken against the Petitioner.

7. Stand over to 08/08/2023 in the 'passing orders' category."

3. Today, we are informed that the Petitioner has deposited an amount of Rs.3,50,000/- with Respondent No.2.

4. The learned Advocate representing Respondent No.2 submits that, the flying squad had reached the Industrial premises

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of the Petitioner and a video recording has been done on the entire proceeding. The electricity meter was tampered with and was running at 1/4th of the normal speed. The Petitioner will have to compound the offence, failing which, the First Information Report already registered, would be taken to its logical end by an investigation under the Code of Criminal Procedure and the Company can independently proceed to disconnect the electricity connection of the Petitioner.

5. The learned Advocate for the Petitioner submits on instructions from the Petitioner, who is present in the Court, that the part payment of Rs.4,00,000/-, as directed by this Court in its order dated 31/07/2023, will be deposited on 17/08/2023 and the protection may be extended, so that the Petitioner can approach the Company for compounding of the offence.

6. The learned Advocate for the Company, submits that the Petitioner can be protected only under the orders of this Court for a limited period and within such period, if the compounding occurs, the issue could be put to rest. If compounding is not done by the Petitioner, the Company would be at liberty to disconnect the electricity connection of the Petitioner.

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7. In view of the above, **this petition is disposed off.** The Petitioner shall deposit an amount of Rs.4,00,000/- with Respondent No.2, on or before 17/08/2023. If this direction is complied with, the protection against disconnection would stand extended till 31/08/2023, within which period, the Petitioner may approach Respondent No.2 for compounding of the offence. The protection, as granted by this Court, would lose its efficacy w.e.f. 01/09/2023.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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