

Shri Ganraj Balasaheb Patil ...Petitioner
Versus
Maharashtra State Electricity
Distribution Company Limited And Anr ...Respondents

Mr. Anil Kumar Patil for Petitioner.
Mr. A. I. Patel, Addl. G. P. for State/ Respondent.
Ms Ushajee Peri i/b Lexcorp Partners for Respondent No.1.
Mr. Ravindra M Patil, Deputy Executive Engineer, MSEDCL. Mr. Rahul Ashok Sonanwane, Assistant Accountant, MSEDCL, Malegaon Rural Sub Division.

**CORAM : K.R. SHRIRAM &
RAJESH S. PATIL JJ**
DATED : 8th FEBRUARY 2023

P.C. :

1 Petitioner has approached this court to set aside the order dated 7th January 2023 passed by the Learned District Judge-4, Malegaon, Nashik, refusing to restrain respondent no.1 from disconnecting the electricity supply to petitioner's premises. According to respondent no.1, petitioner is accused of theft of electricity and an FIR for offence under Section 135 of the Electricity Act 2003 (the Act) has been lodged in the concerned police station. It is the case of respondent no.1 that petitioner has a civil liability for theft of electricity under Section 154(5) of the Act. Ms Peri submitted that under Section 154(5) of the Act a Special Court shall determine the civil liability for theft of electricity, and that Special Court will be the court of session as provided under Section 155 of the Act. Mr. Patil denied all the

allegations of respondent no.1.

2 Mr. Patil submitted that even if, for a moment the case is held against petitioner, still there is no basis as to how the figure of Rs.4,91,930/- demanded, has been arrived at. In view thereof, Mr. Patil submitted that petitioner shall secure respondent no.1 by paying a sum of Rs.3,00,000/- in three installments, first of which will be within one week from the date this court passes an order, i.e., today, a further sum of Rs.1,00,000/- on or before 10th March 2023 and third installment of Rs.1,00,000/- on or before 10th April 2023. Mr. Patil states petitioner has also filed in this court an affidavit affirmed on 1st February 2023 confirming the above. Mr. Patil states that though in the affidavit petitioner has stated that the amount will be deposited in the District Court, Malegaon, District Nashik, petitioner would make the payment directly to respondent no.1.

3 Ms Peri states ultimately, if the concerned court comes to a conclusion that petitioner is guilty of theft and the amount of electricity charges payable is less than Rs.3,00,000/-, credit for the surplus will also be given to petitioner.

Ms Peri, of course, insisted on petitioner paying the entire amount of Rs.4,91,930/- and the statement made above was only if the court was inclined to consider the request of petitioner.

4 In our view, the issue whether petitioner committed theft of electricity and what was the quantum of electricity that petitioner stole, are all subject matter of the proceedings in the appropriate forums, not here. At the same

time there is nothing to justify the exact amount of Rs.4,91,930/-. Therefore, in our view, if petitioner is directed to pay respondent no.1 the amount of Rs.3,00,000/- as mentioned in the affidavit, it would meet the interest of justice. Of course, if the amount as per the installments mentioned in the affidavit is not made, respondent no.1 is at liberty to disconnect the electricity connection of petitioner on the date following the installment date without giving any advance intimation to petitioner.

4 Upon petitioner paying the first installment of Rs.1,00,000/- respondent no.1 shall within two working days, reconnect the electricity supply of petitioner. If petitioner does not pay the bill raised for the re-connection charges alongwith the electricity charges for the period from the date of re-connection until it falls due, respondent no.1 may take independent action.

6 In view of the above, petition disposed.

7 We clarify that we have not made any observations on the allegations of theft made against petitioner by respondent no.1 or petitioner's claim to innocence.

8 The above order has been passed in the peculiar facts and circumstances of the case and shall not be used as precedent in any forum.

(RAJESH S PATIL, J.)

(K.R. SHRIRAM, J.)