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914-WP-814-2025

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

914 CRIMINAL WRIT PETITION NO. 814 OF 2025

The Superintending Engineer, Maharashtra State Electricity Distribution
Com. Ltd. Ahmednagar And Others

VERSUS

Rajendra Tukaram Avhad

...

Mr. Avishkar S. Shelke, Advocate for the Petitioners.

Mr. Rajendra Deshmukh, Senior Advocate i/by Mr. Y. V. Kakade,
Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 14th AUGUST 2025.

PC :-

1. Heard Mr. Shelke, the learned Advocates for the petitioners and Mr. Deshmukh, the learned Senior Advocate for Respondent, for some time.

2. A challenge in this petition is to an order dated 25th March 2025, passed by the learned Special Judge, Ahmednagar, on an application Below Exh.5 in Civil Misc. Application No.78 of 2025 under the

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provisions of Electricity Act, 2003.

3. It is pointed out that the proceeding is taken under Section 154(5) of the Electricity Act, for theft of electricity under Section 135 of the Electricity Act, 2003 (for short, “the said Act”). The learned Special Judge, Ahmednagar, by way of impugned order, has directed the petitioner-company to restore the electric connection which was disconnected by the Company under Section 135 of the said Act.

4. The learned Advocate for the petitioner vehemently argued that there is no power vested if the Special Judge under Section 154 of the said Act to grant interim relief of the nature of restoring electricity connection or any other interim order restraining the Company from disconnecting the supply of electricity.

5. The learned Senior Advocate vehemently argued that the Court established under law has every power to grant relief. The respondent has rightly filed an application Exh.5. It is only upon satisfaction of the Court about the existence of *prima facie* case that the Court passed an

order.

6. During the course of argument, it is also submitted that though the supply was to be disconnected earlier, considering that the respondent is a hospital, the authorities have stayed their hands. On 24th July 2025, eight days' time was granted to deposit the money, and now, the said time is extended till 13th August 2025 and by virtue of yesterday's order, the time is expiring today.

7. Be that as it may, this Court finds that impugned order is totally without jurisdiction. There is no power vested in the Special Court to pass such order by exercising the discretion. Section 154 of the Electricity Act reads as below:

154. Procedure and power of Special Court.–

“(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under sections 135 to 140 and section 150 shall be triable only by the Special Court within whose jurisdiction such offence has been committed.

(2) Where it appears to any court in the course of any inquiry or trial that an offence punishable under sections 135 to 140 and section 150 in respect of any offence that the case is one which is triable by a Special Court constituted under this Act for the area in which such case has arisen, it shall transfer such case to such Special Court, and thereupon such case shall be

tried and disposed of by such Special Court in accordance with the provisions of this Act:

Provided that it shall be lawful for such Special Court to act on the evidence, if any, recorded by any court in the case of presence of the accused before the transfer of the case to any Special Court:

Provided further that if such Special Court is of opinion that further examination, cross-examination and re-examination of any of the witnesses whose evidence has already been recorded, is required in the interest of justice, it may re-summon any such witness and after such further examination, cross-examination or re-examination, if any, as it may permit, the witness shall be discharged.

(3) The Special Court may, notwithstanding anything contained in subsection (1) of section 260 or section 262 of the Code of Criminal Procedure, 1973 (2 of 1974), try the offence referred to in sections 135 to 140 and section 150 in a summary way in accordance with the procedure prescribed in the said Code and the provisions of sections 263 to 265 of the said Code shall, so far as may be, apply to such trial:

Provided that where in the course of a summary trial under this subsection, it appears to the Special Court that the nature of the case is such that it is undesirable to try such case in summary way, the Special Court shall recall any witness who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the said Code for the trial of such offence:

Provided further that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding five years.

(4) A Special Court may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to, any offence tender pardon to such person on condition of his making a full and true disclosure of the circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof, and any pardon so tendered shall, for the purposes of section 308 of the Code of Criminal Procedure, 1973 (2 of 1974), be deemed to have been tendered under section 307 thereof.

(5) The Special Court shall determine the civil liability against a consumer or a person in terms of money for theft of energy which shall not be less than an amount equivalent to two times of the tariff rate applicable for a period of twelve months preceding the date of detection of theft of

energy or the exact period of theft if determined whichever is less and the amount of civil liability so determined shall be recovered as if it were a decree of civil court.

(6) In case the civil liability so determined finally by the Special Court is less than the amount deposited by the consumer or the person, the excess amount so deposited by the consumer or the person, to the Board or licensee or the concerned person, as the case may be, shall be refunded by the Board or licensee or the concerned person, as the case may be, within a fortnight from the date of communication of the order of the Special Court together with interest at the prevailing Reserve Bank of India prime lending rate for the period from the date of such deposit till the date of payment.

Explanation.—For the purposes of this section, “civil liability” means loss or damage incurred by the Board or licensee or the concerned person, as the case may be, due to the commission of an offence referred to in sections 135 to 140 and section 150.”

8. It is thus clear that this section nowhere provides a power in the Court to grant any interim relief. Only option for a person under Section 135 of the said Act to deposit the entire amount. If the entire amount is deposited, it is only then that the connection can be restored, and it is only thereafter the provisions of Section 154(5) can be invoked.

9. Learned Senior Advocate for the Respondent prays for some installments to deposit the amount, which is stated to be Rs.32,71,810/-.

10. Considering all above, this Court finds that there is substance in the writ petition. Writ petition stands allowed. Hence, the following order:

ORDER

- (i) Criminal Writ Petition stands allowed.
- (ii) The impugned order dated 25th March 2025, passed by the learned Special Judge, Ahmednagar, on an application Below Exh.5 in Civil Misc. Application No.78 of 2025 under the provisions of Electricity Act, 2003, is quashed and set aside.
- (iii) No action of disconnection shall be taken against the respondent, subject to respondent depositing 80% of the amount within six weeks from today and remaining 20% of the amount be deposited within two weeks thereafter. Thus, the total amount be cleared by 8th October 2025 and deposit amount of bills regularly.
- (iv) No further extension shall be granted. The Company shall be within its power to disconnect the electric supply on failure to deposit amount as sated above.
- (v) With this, writ petition stands disposed off. This order shall not be treated as a precedent.

[KISHORE C. SANT, J.]