

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4112 OF 2025

M/s. Ashtavinayak Realty through Partner
Rajendra Dagadu Gaikwad ...Petitioner
Versus
Official Liquidator of M/s. Patheja Brothers
Foreign and Stamping Ltd. & Ors. ...Respondents

Ms. Jyoti Pendse a/w Prashant Jadhav & Mangesh Sirsat for Petitioner.
Mr. Rushab Sheth for Official Liquidator-Respondent No.1.
Mr. Kiran Gandhi i/b Little & Co., for Respondent No.3.
Mr. Ranjit Shinde for Respondent No.4.

**CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.**

DATE: 28 APRIL 2025

P.C.

1. This petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs:

- a. That the Hon'ble Court be pleased to allow the petition;
- b. That the Hon'ble Court be pleased to issue Writ of Mandamus or any other appropriate writ/direction/order in the nature of mandamus thereby direct the Respondent No.3 to allow the application of M/s. Ajptech Aluminium Pvt. Ltd., for new HT Power Supply in Gat No.206, Hissa No.1B, Kharabwadi, Chakan, Tal-Khed, Dist-Pune with proposed contract demand of 15000 KVA and proposed connected load of 1200 KV.
- c. That the Hon'ble Court be pleased to issue Writ of Mandamus or any other appropriate writ / order directing the Respondent No.4 forthwith issue NOC to M/s. Japtech Aluminium Pvt. Ltd.,"

2. Considering the well settled principles of law as laid down by the Supreme Court in **K. C. Ninan Vs. Kerala State Electricity Board & Ors.**¹, it may not be

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possible for us to grant any relief as the petitioner has purchased the premises in question in an auction, which was sold the premises on as is where is basis. As clearly seen from the bid document **Exhibit – B**, which itself specifies that the sale of the property is on ‘as is where is’, ‘as is what is’ and “whatever there is basis”. There were electricity dues payable by the predecessor in title of the petitioner, namely, M/s. Patheja Brothers Forging and Stamping Ltd., (for short “the company in liquidation”) to an extent of approximately an amount of Rs.1,85,00,000/- along with interest as payable by the company in liquidation to respondent No.3 - Maharashtra State Electricity Distribution Company Limited.

3. The contention of the petitioner is that the MSEDCL was intending to lodge its claim for the such amounts as payable by the company in liquidation with the official liquidator, and in that context, the attention of the Court is drawn to a communication addressed to the official liquidator, High Court Bombay dated 17 April 2025 to respondent No.3 – MSEDCL. Mr. Gandhi, represents MSEDCL.

4. Considering the urgency with which the petitioner intends to have the electricity connection, Ms. Chavan, learned counsel for the petitioner has contended that the petitioner intends to make payment of the amount towards the electricity charges which was due and payable by M/s. Patheja Brothers Forging company in liquidation to the MSEDCL. She, however, submits that in the event, the MSEDCL is in a position to receive the said amounts from the official liquidator in pursuing its application, in that case, the petitioner be granted a refund and / or an adjustment whatever may be made mutually suitable.

5. In this view of the matter as observing that we are not inclined to entertain this petition, we consider it appropriate to dispose of this petition in terms of the following order:

ORDER

(i) The Petitioner and / or its nominee M/s. Japtech Aluminium Pvt. Ltd. intends to deposit the outstanding amounts of the electricity charges as consumed by the company in liquidation of M/s. Patheja Brothers Forging company with the MSEDCL within a period of four weeks. On such deposit being made, the MSEDCL shall grant to the petitioner electricity connection.

(ii) It is open to the MSEDCL to make an application to the official liquidator within eight weeks from today and if such an application is made, let the same be decided by the official liquidator on its merits and in accordance with law.

(iii) If the electricity dues being paid by the petitioner to the MSEDCL are cleared, NOC be accordingly issued in accordance with law.

6. All contentions of the parties in that regard are expressly kept open.

7. Petition stands disposed of in the aforesaid terms. No costs.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)

This order is corrected as per speaking to the minutes of the order dated 7 May 2025.