

Aji Philip Vs. Executive Engineer and Others

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Court : Kerala

Decided On : Jan-01-2014

Judge : Honourable Mr.Justice C.K.Abdul Rehim

Appellant : Aji Philip

Respondent : Executive Engineer and Others

Judgement :

IN THE HIGH COURT OF KERALAATERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM WEDNESDAY,THE1T DAYOF JANUARY201411TH POUSHA, 1935 WP(C).No. 19030 of 2010 (C)

----- PETITIONER : ----- AJI PHILIP, AGED35YEARS, S/O. LATE T.D.PHILIP, THONDIYIL GRACE VILLA, EZHAMKULAM NEDUMAN P.O., PATHANAMTHITTA. BY ADVS.SRI.JOHNSON MANAYANI SRI.BENHUR JOSEPH MANAYANI RESPONDENTS : ----- 1. THE EXECUTIVE ENGINEER, ELECTRICAL DIVISION, KSEB, ADOOR.

2. ASSISTANT EXECUTIVE ENGINEER, KSEB, EZHAMKULAM, PATHANAMTHITTADISTRICT.

3. KERALA STATE ELECTRICITY BOARD, VYDHUTHI BHAVAN,PATTOM, THIRUVANANTHAPURAM REP. BYITS SECRETARY. R1-3 BY ADVS.SRI.P.P.THAJUDEEN, SC, K.S.E.B SMT.P.K.RADHIKA-KSEB THIS WRIT

PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01-01-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 19030 of 2010 (C) APPENDIX PETITIONER'S EXHIBITS : EXT.P1 : TRUE COPY OF THE BILL ISSUED BY THE 2D RESPONDENT EXT.P2 : TRUE COPY OF THE

JUDGMENT

IN WP(C)NO.28743/03 DT.04.9.03 EXT.P3 : TRUE COPY OF THE

ORDER

OF THE FIRST RESPONDENT EXT.P4 : TRUE COPY OF THE

ORDER

OF THE 2D RESPONDENT EXT.P5 : TRUE COPY OF THE

ORDER

PASSED IN WP(C).2172 OF 2004 EXT.P6 : TRUE COPY OF THE

JUDGMENT

PASSED IN WP(C).2172 OF 2004 EXT.P7 : TRUE COPY OF THE

ORDER

DT.10.6.2010 OF THE ASSISTANT ENGINEER RESPONDENTS' EXHIBITS : NIL /TRUE COPY/ P.ATO JUDGE AV C.K. ABDUL REHIM, J.

----- W.P.(C). No. 19030 of 2010
----- Dated this the 1st day of January, 2014

JUDGMENT

Penalty imposed against the petitioner under the Electricity Act 2003 was subjected to challenge in appeal before the 1st respondent. Ext.P3 is the order passed by the 1st respondent disposing the appeal granting reduction in the amount of penalty. The petitioner had challenged Ext.P3 in a writ petition filed before this court in WP(C) No. 2172/2004. This court granted an interim stay as per Ext.P5 subject to condition of the petitioner remitting a sum of `12,500/-. But the said writ petition was dismissed as withdrawn, as per Ext.P6 judgment. Subsequently, Ext.P7 notice was issued requesting the petitioner to remit the

entire arrears to the tune of `49,564/- along with `60,967/- towards interest. The demand is challenged in this writ petition contending that, the amount of `12,500/- remitted during pendency of the earlier writ petition was not given credit.

2. When this writ petition came up for admission W.P.(C). No. 19030 of 2010 -2- on 25.06.2010 an interim stay was granted against realisation of the amount demanded under Ext.P7, subject to condition of the petitioner remitting a sum of `50,000/-. Learned counsel for the petitioner contended that the said amount was also to be given credit and the petitioner is ready to pay the balance, if sufficient time is granted.

3. In the counter affidavit filed on behalf of respondents it is mentioned that subsequent to Ext.P7 a revised bill was issued giving credit to the amount of `12,500/-. It is further mentioned that after giving credit to the amount of `50,000/- remitted on the basis of the interim order passed in this writ petition, the balance outstanding is `46,431/- including arrears of current charges and interest, as on 17.07.2010.

4. Learned counsel for the petitioner raised a contention that the amounts already paid were credited towards interest (surcharge) and hence the calculation is not correct. But going by the relevant Regulation the authorities of the Board was right in giving credit to the part payments made, first against the amount due as W.P.(C). No. 19030 of 2010 -3- surcharge (interest). Therefore I do not find any error in the demand now made, as conceded in the counter affidavit.

5. Under the above mentioned circumstances, the writ petition deserves no merit. However the plea made by learned counsel for the petitioner for permitting payment of the balance amount in installments, need consideration, on principles of equity.

6. Hence, while dismissing this writ petition, the petitioner is permitted to pay the balance outstanding in 4 equal monthly installments, falling due on or before 31.01.2014 and on or before the last date of 3 succeeding months.

7. Needless to observe that, on failure to remit any of the monthly installments, the respondents will be free to recover the entire balance through coercive methods.
Sd/- C.K. ABDUL REHIM, JUDGE /True copy/ P. A. to Judge Pn

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