

Vanaja Vs. K.S.E.B

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SooperKanoon Citation : sooperkanoon.com/1130070

Court : Kerala

Decided On : Feb-18-2014

Judge : Honourable Mr.Justice Antony Dominic

Appellant : Vanaja

Respondent : K.S.E.B

Judgement :

IN THE HIGH COURT OF KERALAAT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE ANTONY DOMINIC & THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN TUESDAY, THE18H DAY OF FEBRUARY201429TH MAGHA, 1935 WA.No. 2059 of 2012 () IN WP(C).6103/2008 ----- AGAINST THE

ORDER

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JUDGMENT

IN WP(C) 6103/2008 of HIGH COURT OF KERALA DATED1809-2012 APPELLANT/APPELLANT: ----- VANAJA, AGED52YEARS W/O. VALSAN, P.O., ONCHIYAM (VIA) CHEMBALA, KOZHIKODE DISTRICT. BY ADVS.SRI.C.VATHSALAN SRI.I.K.RAJU SRI.K.RAKESH ROSHAN SMT.THUSHARA.V RESPONDENT(S): ----- 1. KERALA STATEELECTRICITY BOARD VYDYUTHI BHAVAN, THIRUVANANTHAPURAM

REPRESENTED BY THE SECRETARY.

2. THE DEPUTY CHIEF ENGINEER, K S E B, ELECTRICAL CIRCLE, VADAKARA.

3. THE ASSISTANT ENGINEER ELECTRICAL SECTION, K.S.E.B.MUTTUNGAL P.O. MUTTUNGAL. (VIA) VADAKARA, KOZHIKODE DISTRICT. BY SRI.SAJEEVKUMAR K.GOPAL,SC,KSEB THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON1802-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: ANTONY DOMINIC & ANIL K.NARENDRA, JJ.

----- Writ Appeal No.2059 of 2012
----- DATED THIS THE18h DAY OF
FEBRUARY, 2014

JUDGMENT

ANTONY DOMINIC,J.

This appeal is filed against the judgment of the learned Single Judge dismissing W.P.(C)No.6103/2008 filed by the appellant.

2. We heard the counsel for the appellant and also the Standing Counsel for the respondents.

3. The appellant is the Proprietor of a Coconut Oil Extraction Unit and is a consumer of electrical energy supplied by the respondents. On 15.9.2007, the Anti Power Theft Squad (APTS) inspected the meter installed in the premises of the appellant. Exhibit P3 is the mahazar prepared. The sum and substance of the irregularity found is that according to the respondents, the energy consumed was not accurately recorded in the meter, on account of the insertion of a powerful magnet, which arrested the motor inside the meter. On that basis, levying penal charges, Exhibit P4 bill for Rs.1,71,821/- was issued.

4. The bill was challenged in Exhibit P5 appeal, which was disposed of by Exhibit P7 order of the appellate authority. In that order, though the finding of theft of energy was confirmed, the appellate authority ordered reduction of the amount

levied. Accordingly, Exhibit P8 W.A.No.2059/12 -2- bill was issued reducing the demand to Rs.1,22,282/- and demanding payment of the balance amount due. It is challenging these proceedings, the Writ Petition was filed and on the dismissal of the same, this appeal is preferred.

5. The learned counsel for the appellant contended that there is no evidence whatsoever to justify a conclusion that there was theft of energy. He referred us to Exhibit P3 mahazar and Exhibit P1 series bills and also Exhibit P2, issued by the manufacturer of the meter indicating the various qualities of their product.

6. Though, we have considered the submissions made, having regard to the finding in Exhibit P3 mahazar, we are unable to accept the contention of the learned counsel for the appellant that the appellant is entitled to be exonerated of the liability. Exhibit P3 mahazar shows that on inspection the meter cover near to the counter mechanism of the meter was found to be having lot of scratches indicating that on various occasions, a powerful magnet was inserted inside the meter. It is stated that the meter cover was opened and that on examination of the interior mechanism of the meter, damages were found consequent on the repeated insertion of magnet. It is on that basis that they concluded that by inserting the magnet, the functioning of the motor inside the meter was arrested and thus recording of energy consumed was prevented. There is nothing before us to think that these findings of the W.A.No.2059/12 -3- APTS are factually incorrect or that it does not suggest theft of energy as contended before us. Consequently, we are unable to rely on Exhibit P1 series of bills and conclude that the energy consumed was being correctly recorded or to rely on Exhibit P2, the literature published by the manufacturer of the meter, to rule out the possibility of pilferage of energy. In such circumstances, we also accept that theft of energy has taken place and that therefore, we uphold the impugned proceedings and agree with the learned Single Judge that the Writ Petition merits only dismissal. The appeal fails and is dismissed. However, we direct that the appellant will be allowed to pay the balance amount due under Exhibit P8 within a period of one month from today and in the meanwhile for the non-payment of the said amount, the power supply shall not be disconnected. Sd/- ANTONY DOMINIC, JUDGE Sd/- ANIL K.NARENDRAN, JUDGE dsn

