

Ghee Varghese Vs. Asst.Engineer,electrical M.Section

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Court : Kerala

Decided On : Feb-25-2014

Judge : Honourable Mr. Justice Babu Mathew P.Joseph

Appellant : Ghee Varghese

Respondent : Asst.Engineer,electrical M.Section

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH TUESDAY, THE 25TH DAY OF FEBRUARY 2014 6TH PHALGUNA, 1935 OP.No. 20956 of 2002 (T)

----- PETITIONERS:

1. GHEE VARGHESE, S/O KOSHY, AGED 58 RESIDING AT SAJI HOUSE, UNIVERSITY ROAD, KALAMASSERY.

2. SAJU S.G. S/O.GHEE VARGHESE, AGED 20 RESIDING AT SAJI HOUSE UNIVERSITY ROAD, KALAMASSERY. BY ADV. SRI.K.C.ELDHO

RESPONDENTS: ----- 1. ASSISTANT ENGINEER, ELECTRICAL MAJOR SECTION, KALAMASSERY.

2. ASSISTANT EXECUTIVE ENGINEER, ELECTRICAL MAJOR SECTION, KALAMASSERY.

3. EXECUTIVE ENGINEER, ELECTRICAL MAJOR SECTION, ALUVA.

4. KERALA STATE ELECTRICITY BOARD, REP. BY SECRETARY, VIDYUTHI BHAVAN PATTOM, TRIVANDRUM. R,1 TO4BY ADV. SRI.T.G.RAJENDRAN SC FOR K.S.E.B. R,R1 TO4BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB R1-R41-R4 BY ADV. SRI.P.SANTHALINGAM (SR.) R1-R4 BY ADV. SRI.S.SHARAN,SC,K.S.E.BOARD THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON2502-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: APPENDIX: PETITIONER'S EXTS: P1: A TRUE COPY OF THE REPRESENTATION DATED241.2002 SUBMITTED BY THE2D PETITIONER BEFORE THE1T RESPONDENT. P2: A TRUE COPY OF THE BILL DATED113.2002 ISSUED TO THE PETITIONER BY THE1T RESPONDENT OFFICE. P3: TRUE COPY OF THE BILL DATED113.2002 FOR A SUM OF RS.14,062/- ISSUED BY THE1T RESPONDENT OFFICE IN FAVOUR OF THE PETITIONER. P4: A TRUE COPY OF THE REPRESENTATION DATED123.02 SUBMITTED BY THE2D PETITIONER BEFORE THE2D RESPONDENT. P5: A TRUE COPY OF THE

JUDGMENT

IN OP NO. 7554/02 DT. 20.3.02. P6: A TRUE COPY OF THE APPEAL SUBMITTED BY THE1T PETITIONER PURSUANT TO EXT.P5. P7: A TRUE COPY OF THE BILL DATED275.02 FOR A PENALTY OF RS. 15,680/- ISSUED TO THE1T PETITIONER. P8: A TRUE COPY OF THE BILL DATED95.02 ISSUED BY THE1T RESPONDENT. P9: A TRUE COPY OF THE APPLICATION FOR REGULARIZATION SUBMITTED BY THE2D PETITIONER. P10. A TRUE COPY OF THE

ORDER

DATED176.02 ISSUED BY THE3D RESPONDENT. P11: A TRUE COPY OF THE BILL DATED87.02 TO THE1T PETITIONER. RESPONDENTS' EXTS: NILESHWAR ks. TRUE COPY P.S. TO JUDGE BABU MATHEW P. JOSEPH, J.

===== O.P.No. 20956 of 2002 =====
===== Dated this the 25th day of February, 2014 =====

JUDGMENT

This Original Petition has been filed for quashing Exts.P7, P8, P10 and P11 and for other reliefs.

2. Heard the learned counsel appearing for the petitioners and the learned Senior Counsel appearing for the respondents.

3. Learned counsel for the petitioners submits that the first petitioner is the father of the second petitioner. They are doing a small scale business in computers in the name and style 'Cyber Planet'. Additional bill has been raised for the additional load of electricity consumed on the basis of an alleged surprise inspection of the premises of the shop. OP No. 20956/2002 2 The first petitioner challenged the same in O.P.No.7554 of 2002. That Original Petition has been disposed of by this Court by Ext.P5 judgment issuing certain directions including to give a copy of the mahazar of the inspection by which the alleged unauthorised load was noticed for enabling the petitioner to explain the same in appeal. As a matter of fact, no unauthorised load was connected by the petitioners. To the knowledge of the petitioners, no surprise inspection was also conducted. Despite the direction so issued by this Court in Ext.P5 judgment, the respondents have not issued a copy of the mahazar of the alleged surprise inspection enabling the petitioner to prefer an appeal. In such a circumstance, the first petitioner was compelled to prefer Ext.P6 appeal without perusing a copy of the mahazar allegedly prepared. Many contentions have been raised in Ext.P6 appeal by the first petitioner. But, those contentions have not been considered by the third respondent Executive Engineer in their right perspective. OP No. 20956/2002 3 Without properly considering the appeal, the third respondent issued Ext.P10 order directing to issue penal bills till the consumer removes or regularises the additional load. In these circumstances, the learned counsel for the petitioners prays for issuing a direction to the third respondent to consider afresh Ext.P6 appeal after supplying a copy of the mahazar of the alleged surprise inspection and after affording an opportunity of being heard to the petitioners. Having heard both the sides, this Court is also of the considered view that this Original Petition can be disposed of with a direction as prayed for by the learned counsel for the petitioners.

4. In the result, the third respondent is directed to consider afresh Ext.P6 appeal filed by the first petitioner after supplying a copy of the mahazar prepared at the time of the surprise inspection claimed to have been conducted at the business premises of the petitioners and after affording an opportunity of being heard to the first petitioner. This OP No. 20956/2002 4 shall be done by the third respondent as expeditiously as possible and, at any rate, within a period of one month from the date of receipt of a copy of this judgment. The first petitioner will be free to submit additional pleadings or produce any documents or other evidence in support of his case before the third respondent. The first petitioner shall produce a copy of this judgment before the third respondent for compliance. This Original Petition is disposed of as above. Sd/- BABU MATHEW P. JOSEPH JUDGE ks.

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