

Order below exh. 7 in C.M. A. No. 88/2021

CNR No. MHPU21-001446-2021

1. The main application has been filed under Section 154(5) of the Indian Electricity Act for determining civil liability against the applicant / consumer and in the said application the applicant has filed an application under Section 56(1) of the Indian Electricity Act praying that till determining the main application, interim relief be granted. It is further submitted that the applicant is ready to deposit Rs. 10,00,000/- towards pending bill amount and partial interest thereon. It is further submitted that the original bill was given of Rs. 5,47,820/- in the year 2009 on the count that the Electricity Board mistakenly fixed the meter showing wrong multiplier of one factor instead of two factors. Therefore lesser bill was generated to the applicant. When flying squad visited the Ice factory of the applicant, they came to know that two factors meter was applicable, however, mistakenly, meter of lesser ampier was installed and later on the M.S.E.B. issued the bill for deficit amount and accordingly it comes to Rs. 5,47,820/-.

2. Thereafter, some litigations were filed by applicant wherein stay was given and some orders were passed by Civil Court as well as the said order was confirmed by District Court. Now, the parties came to know that they had approached before wrong forum and now applicant came to know as per the provisions of Indian Electricity Act, th special Judge is having powers to determine civil liability of the consumer and therefore the present application has been filed.

3. It is submitted by the Ld. Adv. Shri. Shrimangale for applicant that the case of M.S.E.B. is not of theft. The applicant never

committed any wrong. As such, he is not wrong-doer and it was the sheer mistake on the part of MSEB who installed the meter of lesser ampier and bill was calculated by taking into consideration one factor instead of two factors. Therefore, the applicant is not at all at fault and the MSEB has cut off the electricity connection of the ice factory. The applicant many times approached to the MSEB to settle the matter and requested to receive partial amount and reconnect the electricity and give some time to deposit the remaining amount. However, the officials of MSEB have not responded to the same. It is further submitted by the applicant that as per oral discussion between applicant and MSEB officials, the total amount of bill including interest and connecting charges comes to around Rs. 21,00,000/-. The applicant submitted that the civil liability can be determined after detailed hearing of the main application, however, presently due to disconnection of electricity, factory is closed and so many workers are jobless and applicant is also suffering financial hardship. Ld. Advocate for applicant requested to accept Rs. 10,00,000/- towards partial payment of the said civil liability and reconnect the electricity.

4. Ld. Adv. Smt. Kotbagi for MSEB vehemently submitted that any partial payment could have been accepted prior to disconnection as per Section 56(1) of the Indian Electricity Act. Once electricity has been cut off, this provision is not applicable. The interest is applicable as per the rules and regulations framed under the Indian Electricity Act and as per the circulars issued by the Electricity Company which is Government undertaking. Decisions taken by officials cannot be said to be arbitrary and based upon law and rules and once connection is given to the applicant the applicant will certainly avoid to proceed with the matter and avoid to deposit

remaining amount. Therefore, the applicant cannot take resort of Section 56(1) of the Indian Electricity Act and reconnection may not be permitted and the respondent is ready to accept partial payment.

5. As far as the power of this court is concerned, the Electricity Act laid down very specific provisions as regards to establishment of special court to deal with the offences committed under this Act as well as to deal with the determination of civil liability of the consumer who committed offence under this Act. If any dispute arises as regards to assessment of the loss of Electricity Board or company then this court is empowered to determine such civil liability against such wrong-doer. In the present matter it is material to note that there are no allegations against the applicant of committing theft of electricity. It is admitted position on the part of electricity company that while installing meter in the factory of applicant, it was 50 ampier meter was mistakenly installed which was lesser, instead of 100 ampier and that is the reason for issuance of bill for lesser amount to the applicant although the consumption was more than shown in the bill. Therefore, the present circumstances can be said to be rather different than other cases. In such circumstances, the different approach can be taken and the submissions as regards to closure of factory and sufferance of financial hardship to the applicant as well as the labours / workers in the factory can also be taken into consideration while deciding the present application. As far as the fear of electricity company as regards to once electricity is reconnected, the applicant will not turn up, can be taken care of by imposing conditions on him and also by giving liberty to the company to take action. Ld. Adv. Shri. Shrimangale for the applicant also submitted that the applicant is ready to expedite the matter and he also submitted that if

the applicant will not attend the matter, the harsh condition may also be imposed. Therefore, considering the aforesaid facts and circumstances I am of the opinion that there is substance in the submissions of Adv. Shri. Shrimangale for applicant and the applicant is entitled for interim relief with condition to deposit Rs. 10,00,000/- and entitled for reconnection of electricity with stringent conditions. In the result, I proceed to pass following order –

ORDER

- 1] Application (Exh. 7) stands allowed.
- 2] The applicant is permitted to deposit Rs. 10,00,000/- towards partial payment under protest.
- 3] The respondent – Electricity Company is hereby directed to reconnect the electricity. The applicant shall deposit charges, if any, for such reconnection.
- 4] If the applicant failed to proceed with the present matter regularly, Electricity Company will be at liberty to disconnect the electricity supply of applicant.

Khed.
Date : 19/11/2021

(A. M. Ambalkar)
District Judge - 1,
Khed - Rajgurunagar
DistPune.

CERTIFICATE

I affirm that the contents of this P.D.F.file are same word for word as per original.

Name of Steno :- Smt. S. S. Phadke, Steno (Grade-I)

Court Name :- Shri. A.M. Ambalkar,
District Judge - 1,
Khed-Rajgurunagar, Dist- Pune

Date :- 19/11/2021

Order signed by P.O. On :- 19/11/2021

Order uploaded on :- 20/11/2021

I affirm that the contents of this P.D.F.,file judgment are same word for word as per original Judgment.

Name of Steno :Smt.

Mohini P. Rahunkar, Stenographer Gr.I

Court Name :Shri.

A.M. Ambalkar

District Judge2,

6

KhedRajgurunagar

Date :February

18, 2021

Judgment signed by P.O. On :February

18, 2021

Judgment PDF on : February 20, 2021

Judgment uploaded on :February

20, 2021