



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

REVISION APPLICATION NO. 159 OF 2023

Best Undertaking	...Applicant
vs.	
Muttum Abdul Khalid And Ors.	...Respondents

**ALONGWITH
CRIMINAL APPLICATION NO. 694 OF 2023**

Muttum Abdul Khalid	...Applicant
vs.	
Best Undertaking Through Its General Manager and Ors.	...Respondents

Counsel H. Toor a/w Rakesh L. Singh, Heena Shaikh i/by M.V. Kini and Co.	For Applicant in Rev. No. 159 of 2023
Adv. Karan Bhosle a/w Adv. Priyanka Dubey, Adv. Khushboo Acharya i/by Dedgehog and Fox LLP	Advocate for the Applicant Criminal Application No. 694 of 2023 and for Respondent No. 1 in Rev. No. 159 of 2023
Ms. S. E. Phad	APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 27th AUGUST 2024

P. C. :-

1. Heard learned Advocate Shri Bhosle for the consumer in both

these matters. He made following submissions:-

- i) This is case of unauthorized use of theft. Un-authorized use it has broader proposition. **Theft is always unauthorized use, but every unauthorized use will not be theft.** There is dis-connection of supply, when there is theft as contemplated under **Section 135 (1A)** of the Electricity Act 2003.
- (ii) As per Second proviso to Section 135 (1A), the assessee can deposit the amount and supply has to be restored within 48 hours.
- (iii) Once the amount is deposited after disconnection (amount provisionally assessed as per Section 126 (1) of the Electricity Act 2003) Special Court has jurisdiction to determine civil liability as contemplated under **Section 154(5)** of the said Act. In that case there is no need to have final assessment.
- (iv) After **reading Section 156 (5)** of the Electricity Act, he made submission that determination is having the force of decree.
- (v) Depending upon the determination of the liability, either there can be refund or there can be recovery on the basis of an amount assessed as per Section 126 (1).

(vi) He made submission that application under Section 154 (5) is maintainable for determining civil liability. This submission is made in Order to counter submission of learned Advocate for the Best thereby taking objection to the maintainability of the application and objection for its filing prior to conclusion of the trial.

2. Due to paucity of time, matter be kept on 13th September 2024 as part heard for hearing remaining arguments.

[S. M. MODAK, J.]