

(2009) 08 KAR CK 0005

In the Karnataka High Court

Case No : Writ Petition No. 14169 of 2006

Executive Engineer (Elec.), O and M Division, GESCOM and
Another

APPELLANT

Vs

Sri Shankar

RESPONDENT

Date of Decision : 21-08-2009

Acts Referred:

Citation : (2010) 3 KCCR 1793

Hon'ble Judges : Ravi Malimath, J;N.K. Patil, J

Bench : Division Bench

Advocate : R.S. Patil, for the Appellant; Santhosh Biradar, for the Respondent

Judgement

N.K. Patil, J.—Petitioners are assailing the correctness of the order dated 19.6.2006, in Complaint No. 138/05, passed by the District Consumer Disputes Redressal Forum, Bidar, vide Annexure-C and the order passed by the Karnataka State Consumer Disputes Redressal Commission, Bangalore, dated 2.8.2006 passed in Appeal No. 1730/06 produced at Annexure-E, respectively.

2. The respondent being a consumer was using power supply through the petitioners herein for his house, shop and hotel (Khanavali) by using electrical power of 3 KW capacity. Be that, as it may. The respondent has paid the bill amount for the months of June, August and October. The case of the respondent is that inspite of paying necessary demand bills as and when issued, without any justification the petitioners are demanding the balance amount towards consumption of electricity. Hence, he was constrained to file a complaint before the District Consumer Disputes Redressal Forum, Bidar, and the same was allowed in part directing the petitioners to recover the old arrears in 20 monthly installments without any interest and each installment shall be added up to the bill used by the respondent. Being aggrieved by the order passed, the petitioners herein filed an appeal in No. 1730/06 on the file of the Karnataka State Consumer Disputes Redressal Commission at Bangalore. The said appeal has been dismissed holding that it is the District Forum which has granted

installments to the respondent to pay the arrears due towards the electricity charges since the petitioners have not put to any loss or injury, the respondent is directed to pay the amount in installments. Therefore, we find no reasons to interfere with the impugned orders passed by both the Forums as referred to above, vide Annexures-"C" and E" respectively. Therefore, the petitioners presented the instant writ petition seeking appropriate relief as stated supra.

3. Heard the learned Counsel for the petitioners and the Counsel for the respondent.

4. Learned Counsel appearing for the petitioners, at the outset, submitted that the subject-matter involved in the instant case is directly covered by the order passed by the Division Bench of this Court reported in Smt. O.K. Devaki and Another Vs. Standard Chartered Bank and Another, in the case of Smt. O.K. Devaki and Anr. v. M/s. Standard Chartered Bank, Bangalore and Anr. wherein the order passed by both the Forums are to be set aside and matters be remitted for reconsideration on merits by giving an opportunity of hearing to both the parties and pass orders on merits in accordance with law. Therefore, he submitted that the instant petition may be disposed of in terms of the Division Bench decision referred to above.

5. The learned Counsel for the respondent complainant submitted that the submission made by the petitioners may be placed on record and the instant case may be disposed of.

6. In the light of the submissions made by both the parties and having regard to the facts and circumstances of the case, the instant writ petition stands disposed of following the order passed by the Division Bench of this Court and for the reasons stated therein with the following directions. Hence, I pass the following:

ORDER

i. Writ petition is allowed in part.

ii. Impugned orders passed by the District Consumer Disputes Redressal Forum dated 19.6.06 passed in Complaint No. 138/2005 and the order passed by the Karnataka State Consumer Disputes Redressal Commission, Bangalore, passed in Appeal No. 1730/08 vide Annexures-"C" and "D" respectively are hereby set aside and the matter stands remitted to the District Consumer Disputes Redressal Forum to re-hear the matter afresh after providing reasonable opportunity of hearing to the petitioners and the respondent personally or through their Counsel and pass appropriate orders in accordance with law by following the relevant provisions of Electricity Act, Rules, and Regulations so as to clarify that whether the petitioners are not entitled to disconnect the electricity supply, if already restored, in favour of the respondent, till the final decision is taken by the District Forum subject to the condition that the respondent shall pay the regular bill.