

(2007) 06 KAR CK 0013
In the Karnataka High Court
Case No : Writ Petition No. 7853 of 2005

K.M. Saifulla

APPELLANT

Vs

Appellate Authority and Another

RESPONDENT

Date of Decision : 08-06-2007

Acts Referred:

Citation : (2007) ILR (Kar) 2933 : (2007) 6 KarLJ 92 : (2007) 4 KCCR 262 SN

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : P. Dhananjaya, for the Appellant; N.K. Gupta, for the Respondent

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar, J.—The process of this Court in Writ jurisdiction is often misused and abused by undeserving persons who commit fraud, cheat not only private persons but also public authorities and often take this Court for a ride by availing of interim orders and orders misrepresenting facts before the Court.

2. Writ jurisdiction is one to redress the genuine grievances of helpless citizens who perhaps are oppressed by the authority of the State by misusing of power by public authorities and officers who exercise power in the name of the State and to protect such citizens from victimisation, harassment and helplessness. But in the name of helplessness undeserving persons misuse the facility and hood wink even public authorities to the utmost detriment of public interest. The present Writ Petition is one such case.

3. The Writ Petitioner claims to be a resident of the residential house located in Tipu Nagar, Davangere Town. Though it is submitted by Sri. Dhananjaya, Learned Counsel for the petitioner that the residents of the house are two in number, the petitioner and his wife, the petitioner had obtained two power supply connections in RR Nos 18526 and 18527.

4. Even as per the petition averments the subject house and meters and power

connections were inspected by the vigilance squad of KPTCL and they found that the power connection had been tapped for providing power to the adjacent commercial complex with a connected load of 13,699 K.W. The authorities as a consequence, back billed the petitioner for a sum of Rs. 7,63,604/- and while issuing this back billing proposition also intimated the consumer that nonpayment of such amount within 30 days from the date of receipt of the letter dated 24-9-1998 vide Annexure-"B" to the Writ Petition would result in disruption of power supply to these two meters. The petitioner preferred Writ Petitions in W.P. Nos. 21545/2000 and 21843/2000 as against this demand questioning the legality of the same.

5. Learned Counsel appearing for the respondent -Power Transmission Corporation pointed out that the petitioner had the right of statutory appeal and that 50% of the demand has to be deposited and the appeal remedy may be pursued. As the Writ Petitioner represented that he will not be in a position to deposit 50% of the demand amount due to financial constraint, this Court as a measure of relaxation permitted the petitioner to deposit only 25% to pursue the appeal remedy. The petitioner deposited the amount and pursued the appeal remedy. The appeal came to be disposed of granting substantial remedy to the petitioner in the sense that the demand was reduced to Rs. 2,99,951/- and after giving credit to a sum of Rs. 1,83,401/-which had been deposited the balance of Rs. 1,16,550/- with interest was demanded in terms of the order dated 4-1-2005 passed by the Chief Engineer, the Appellate Authority, the copy of which is produced at Annexure-"F". Questioning this appellate order, the present Writ Petition.

6. While notice had been issued to the respondents in this petition, in terms of the interim order dated 25-5-2005, this Court on submission and on instruction by the Learned Counsel for the respondent directed restoration of power supply which had been disconnected for nonpayment of balance amount if the Writ Petitioner deposits 50% of this amount. This Court, by modifying this interim order passed order on 25-5-2005 and directed that for restoration of power, the petitioner should deposit 25% of the demanded amount. It is the submission of Sri P. Dhananjaya, Learned Counsel for the petitioner that this amount had been deposited in terms of receipts at K and K1 in a sum of Rs. 31,469/- and Rs. 3,000/- produced along with I.A. II/2005 for additional grounds and the present grievance is that not with standing the payment of this amount, the respondents are still not restoring the power connection.

7. As of now it is seen that in the meanwhile power was restored on 30-7-2005 pursuant to the payment of arrears and was again disconnected on 11-11-2005 for non-payment of other back billing charges on the ground that such conduct on the part of the respondent is most unreasonable and untenable and seeking now for such purpose, I.A. 1/2006 is filed praying for a direction to the respondent to restore power supply. That is how the matter has come up for orders again.

8. While such is the version of the petitioner, the respondents have filed a detailed objections inter alia pointing out that the petitioner is a habitual misuser of power supply; that not merely the authorities notices such misuse of power supply on an inspection made on 14-8-1998 for which the earlier back bills for Rs. 7,63,604/- was raised and the said amount was reduced and reduced amount was the subject matter of the Writ Petition, the premises of the petitioner was again inspected on 19-4-2000 when it was found that the petitioner had repeated the very misuse by taking connection from the power connection given to the house to the adjacent complex and on such inspection raised back bill of Rs. 3,22,717/- and notwithstanding calling upon the petitioner to pay this amount, the same having not been paid for such purpose and though the power connection had been restored pursuant to the interim order passed by this Court in the Writ Petition, it was again discontinued on 11-11-2005.

9. Sri. Dhananjaya, Learned Counsel for the petitioner contends that the second inspection and the back billing for the sum of Rs. 3,22,717/- was never made known to the petitioner until the demand in terms of Annexure-"L" dated 20-9-2005 to the Writ Petition was raised and served on them. The very Annexure indicates that the sum of Rs. 3,22,717/- with further interest of Rs. 1,48,450/- relates to Cr. No. 25/2000 and is not one in respect of the original demand for Rs. 7,63,604/- pursuant to the inspection made on 14-9-1998 which had come to be reduced substantially by the appellate authority and the reduced amount is the subject matter of the above Writ Petition.

10. This clearly indicates that the petitioner had not challenged the subsequent back billing demand for Rs. 3,22,717/- though he was very much aware of the same as he had been facing prosecution in Cr.No.25/2000 which is said to be pending before the Criminal Court and in which the petitioner has been appearing. This only indicates that the petitioner is feigning ignorance of such demand. On the contrary Sri N.K. Gupta, Learned Counsel for the respondent by drawing attention to paragraph 10 and 1 of the statement of objections would urge that earlier the Division Bench of this Court directed the Writ Petitioner to deposit 50% of the demanded amount, the subject matter of the earlier Writ Petitions and it was for non-payment of 50%, the power connection had been discontinued as that interim order had not been complied with by the petitioner and at that time it had been made known to the petitioner about the demand of Rs. 3,22,717/- etc. Be that as it may, a perusal of the developments as revealed by the petitioner and as is sought to be submitted by the respondent indicates that the petitioner obviously has been misusing the power connection and the adjacent shopping complex has been glowing with light and dazzling ever since 1998 though, as submitted by Sr. N.K. Gupta, it has no authorised power connection till today. An irregularity or illegality of this nature could not have escaped the attention of the respondent authorities and it is rather surprising that no action is pursued against the shopping complex, if as contended by the petitioner the shopping complex, if as contended by the petitioner the shopping complex is owned by some other person etc. But it is not so much relevant to be

examined in this Writ Petition the claim that shopping complex is owned by some other person, but what is important is what relief the petitioner can seek and what relief this Court can grant to the petitioner at all under the circumstances.

11. The petitioner claims to be a person of meagre income and with a family of just two persons, but has been complying with the conditional orders for payment of substantial amount for continuing this litigation. It is rather difficult to believe the version of the petitioner that he is putting with such an ordeal only for his benefit. The authorities are of the view that the commercial complex even if not one owned by the petitioner, it is one within the control of the petitioner for lighting of which he is misusing the power connection given to the two meters No. 18526 and 18527, installed at the residence of the petitioner.

12. The petitioner appears to be habitual mis user of power supply and pursuing the litigation securing the interim orders by this Court and filing Writ Petitions. As observed earlier, Writ jurisdiction is to rescue victimised citizens and to prevent the public authorities from misusing their powers, abusing it and from committing illegality. It cannot be converted for the benefit of perpetrators of illegalities by persons who commit fraud and deception regularly. The above state of affairs indicating that the petitioner has been misusing the power supply provided to his residence and has been using the process of this Court only to stall the logical culmination of the proceedings in respect of the acts of misuse resulting in preventing the effects on him if the proceedings are taken to their logical conclusion. I do not find it necessary to keep the above Writ Petition pending any more in view of such abuse of the process of the Court by the petitioner while the petitioner does not deserve any indulgence of the Court, on the other hand deserves to be seriously viewed and the Writ Petition deserves to be dismissed with exemplary costs. Accordingly this petition is dismissed levying costs of Rs. 5,000/- on the petitioner.

13. If power connection is already discontinued to the petitioner's place, it shall not be restored unless the arrears in respect of the two meters raised as per the demands and which has crystallized in terms of the orders passed by the authorities are fulfilled or met and the petitioner also pays to the respondent the cost awarded in their favour in this petition.

14. I.A. 2/2006 is also rejected as the Writ Petition itself is dismissed.