

(1987) 06 MP CK 0016

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Petition No. 981 of 1983

Regal Theatre and Others

APPELLANT

Vs

M.P.E.B., Rampur and Others

RESPONDENT

Date of Decision : 26-06-1987

Acts Referred:

Electricity Act, 1910 — Section 26(6)

Citation : AIR 1987 MP 276

Hon'ble Judges : P.D. Mulye, J;G.G. Sohani, J

Bench : Division Bench

Advocate : V.S. Kokje, for the Appellant; Garg, for the Respondent

Final Decision : Allowed

Judgement

P.D. Mulye, J.—The petitioner No. 2, who is a partner of M/s. Regal Theatre are running a cinema show in that theatre known as Regal Talkies in which an electric connection is installed, supplied by M.P. Electricity Board which recovers the electricity charges on the basis of the meter reading.

2. On 31st Mar. 1982 the petitioners received a bill for Rs. 47,600.27 p. as per Annexure "A" on account of energy charges for the period July, 1980 to Dec. 1980(?) on the ground that the electric meter installed at the petitioners' theatre has recorded 1/3rd consumption instead of full consumption. The petitioners by their reply dtd. 15-5-1982 Annexure "B" disputed the said demand. Subsequently correspondence took place between the petitioners and the respondents on this point with the result that the respondents again sent a supplementary bill for Rs. 13,513/-, without disclosing as to how this figure was arrived at especially when initially the bill was sent for Rs. 47,600.27 p. mentioned above.

3. It is in these circumstances, after serving notice of demand of justice on 15-11-83 the petitioners have filed this petition under Article 226 of the Constitution of India with a prayer to quash the demand as per Annexures "L"

and "L-I" dtd. 29-10-83 for recovery of Rs. 13,513/- as the same is without jurisdiction and without the authority of law, with a further prayer that the respondents be restrained from disconnecting the electrical supply of the petitioners and not to demand any amount on the ground of defective meter without following the procedure prescribed by Section 26 of the Indian Electricity Act, 1910.

4. The respondents in their returns have disputed the petitioners' contention on the ground that the petitioners as consumers are bound to see that the electric meter shows correct reading of the electricity consumption and on checking when it was found that the meter was not showing the correct reading inasmuch as instead of full consumption it was recording only 1/3rd thereof, the respondents were justified in making the demand for the 2/3rd consumption.

5. The learned counsel for the petitioners submitted that when the petitioners had disputed the claim of the respondents regarding the meter reading, the respondents were bound to refer the dispute to the Electrical Inspector as contemplated by Section 26(6) of the Electricity Act and in support of this submission he placed reliance on the Division Bench decisions reported in Hamidullah Khan, Jabalpur Vs. The Chairman, Madhya Pradesh Electricity Board, Rampur, Jabalpur and Others, , Smt. Basantibai Vs. M.P. Electricity Board, Indore and Others, ; Smt. Basantibai v. M.P. Electricity Board wherein it has been held that it was for the Board to get the dispute decided by Electrical Inspector which alone was the course open to the Board in view of Section 26(6). The Board could not have by itself decided that the meter installed was acceptive was not recording the actual consumption because such a decision could only be given by referring the dispute to the Electrical Inspector.

6. The learned counsel for the respondents in the light of these decisions, submitted in fairness, that he is not in a position to support the stand taken by the respondents in their returns though he urged that as a matter of fact the petitioners had never objected when tested with the check meter, a substantial difference of 2/3rd of electric consumption was in fact recorded when compared with the electric meter installed at theatre, owing to which it was not necessary to refer the dispute to the Electrical Inspector. He also urged that the petitioners have an alternative remedy of filing a suit under the M.P. Government Electrical Undertakings (Dues Recovery) Act, 1961, and, therefore, no interference in exercise of the writ jurisdiction is called for. However, he did not dispute that these points have not been raised in the returns. In these circumstances it is not necessary for us to consider this submission of the learned counsel for the respondents.

7. In the result this petition succeeds and is allowed with costs. The demand as per Annexures L and L-I for Rs. 13,513A made by the respondent Board is quashed, and the respondents are restrained from disconnecting the supply of electric energy to the petitioners in pursuance of their notice dtd. 29th Oct, 1983 Annexure "L". Counsel Fee Rs. 250/-. The amount of security, deposit, on

verification, be returned to the petitioners.