

(2013) 01 KL CK 0133

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 593 of 2013 (Y)

Roy Thomas, Balummel House, Kannamaly, Kochi-682008

APPELLANT

Vs

Kerala State Electricity Board, Deputy Chief Engineer KSE
Board and The Assistant Engineer Electrical Section, KSEB

RESPONDENT

Date of Decision : 07-01-2013

Acts Referred:

Electricity Act, 2003 — Section 127, 127(2)

Citation : (2013) 01 KL CK 0133

Hon'ble Judges : V. Chitambaresh, J

Bench : Single Bench

Advocate : J. Julian Xavier, Sri. Firoz K. Robin, Sri. Roy Joseph, Smt. M.S. Soujath and Smt. Anies Mathew, for the Appellant; Jaice Jacob, SC for R1 to R3, for the Respondent

Judgement

V. Chitambaresh, J.—Ext. P9 appeal has been preferred u/s 127 of the Electricity Act, 2003 against Ext.P7 order imposing penalty for unauthorised extension. The petitioner contends that the levy of Rs. 76,700/- (Rupees seventy six thousand seven hundred only) on this count is excessive and illegal in view of the dictum in J.D.T. Islam Orphanage Committee vs. Assistant Engineer, KSEB (2007 (3) KLT 388). The correctness of the penalty so imposed can only be considered in the statutory appeal pending and not in this writ petition. Section 127(2) of the Electricity Act, 2003 is emphatic that no appeal shall be entertained unless one half of the amount is deposited. Therefore the petitioner has obviously to deposit one half of the amount demanded under Ext.P8 final bill for consideration of Ext.P9 appeal on merits. Ext.P9 appeal shall be considered on merits within one month from the date of receipt of copy of this judgment on complying with the conditions u/s 127(2) of the Electricity Act, 2003.

2. I however add that the payment of one half of the amount demanded will be purely subject to the result of Ext.P9 appeal. The amount so paid is liable to be adjusted towards future dues incase Ext.P9 appeal is eventually allowed. Nothing

said in this judgment will disable the Kerala State Electricity Board to consider Ext.P10 application for regularisation of connection in the meanwhile. The petitioner is given a period of two weeks to deposit one half of the amount required u/s 127 (2) of the Electricity Act in the appeal during which time the electricity connection shall not be snapped.

The Writ Petition (Civil) is disposed of.