

(2011) 03 KL CK 0221

In the High Court Of Kerala

Case No : Writ Petition (C) No. 24748 of 2004 (U)

Smt. V.K. Zainaby

APPELLANT

Vs

Kerala State Electricity Board, Executive Engineer and
Assistant Executive Engineer

RESPONDENT

Date of Decision : 04-03-2011

Acts Referred:

Citation : (2011) 03 KL CK 0221

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : S. Ramesh Babu, for the Appellant; Kodoth Sreedharan, SC, KSEB, for the Respondent

Judgement

Antony Dominic, J.—The prayer sought for in this writ petition is to quash Exts.P4 and P5 and to direct the Respondents to give electric connection to the shop room of the Petitioner forthwith. Petitioner's husband was running a cycle shop availing of supply of electrical energy with Consumer No. 2286.

According to the Petitioner, bills were paid by the deceased without any default. While so on 12.1.1989 as a result of a fire accident the shop was damaged and the supply of electricity was also disconnected. In spite of which Ext.P1 series of bills were issued and, according to the Petitioner, she represented to the third Respondent that since supply itself is disconnected the bills issued were illegal. It is stated that therefore further bills were not issued to the Petitioner. Subsequently sometime in 2001, Petitioner applied for a new connection and at that stage Petitioner was issued Ext.P2 demanding a sum of Rs. 28,552/-.

Petitioner challenged Ext.P2 before this Court by filing OP. No. 35165/2001. By Ext.P3 judgment this Court disposed of the original petition. Taking note of the facts pleaded, this Court issued the following directions:

It is declared that in case there is no request for keeping the connection alive, there shall be fixed charges only for a period of six months from the date of

disconnection and in case there is a request, the fixed charges is liable to be levied for another six months. Therefore, there will be a direction to the 3rd Respondent to compute the liability of the Petitioner in terms of the declaration above made and the Petitioner shall be intimated his arrears to be paid within a period of one month from today.

Petitioner now desires for a new connection. It is for the Petitioner to make an appropriate application to the third Respondent, after clearing the liability as referred to above. If such an application for new connection is received by the third Respondent, the third Respondent will process the same and take appropriate action in accordance with law. In order to enable the third Respondent to re-compute the liability as referred to above, I set aside Ext.P6. It is made clear that the Petitioner will be liable to pay arrears of current charges, if any, at the time of disconnection.

2. In purported compliance of the directions in the judgment, Exts.P4 and P5 were issued demanding Rs. 10,163/- and Rs. 28,552/- respectively. She objected to Exts.P4 and P5 by filing Ext.P6 representation. No reply was given. It is thereupon this writ petition has been filed.

3. At the stage of admission, this Court issued an interim order on 25.8.2004 directing that the Petitioner be given fresh connection on the Petitioner remitting 50% of the disputed arrears. That has been done. The main contention of the Petitioner is that Exts.P4 and P5 have been issued without complying the directions in Ext.P3 judgment. It is stated that therefore Respondents are liable to confine their demand as per the directions in the judgment and if Petitioner makes payment of the amount due, she is entitled to be given new connection. Although Respondents have entered appearance, so far no counter affidavit has been filed.

4. As already seen in Ext.P3 judgment, this Court has directed that the Respondents can demand only fixed charges for six months. If so, the Respondents cannot demand anything other than the fixed charges and that too only for a period of six months. It is obvious that the amount demanded as per Exts.P4 and P5 are not only fixed charges and for that reason Exts.P4 and P5 cannot be questioned. Therefore I set aside Exts.P4 and P5 and dispose of the writ petition with the following directions:

5. The third Respondent will re-compute the amount of fixed charges due from the Petitioner for the period subsequent to 12.1.1989 when the supply to the premises in question were disconnected in the light of the directions in the judgment in O.P. No. 35165/2001. If the Petitioner has already remitted 50% of the amount as directed by this Court in the order dated 25.8.2004, it will be open to the third Respondent to appropriate the fixed charges from out of the payment made and adjust the balance amount remitted towards future bills amount of the Petitioner. On the other hand, if the Petitioner has not remitted the amount, it is directed that once the amount is quantified and demanded as

above, it will be open to the Petitioner to make remittance of the actual amount due and on such remittance, the Respondents shall give connection to the premises of the Petitioner on the Petitioner complying with other formalities.

The writ petition is disposed of as above.