



WP(C) NO. 16139 OF 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

FRIDAY, THE 10th DAY OF APRIL 2026 / 20TH CHAITHRA, 1948

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PETITIONER:

BIPHA DRUG LABORATORIES PVT. LTD.,
HAVING ITS REGISTERED OFFICE AT XIII/804,
PALLIPURATHUKAVU JUNCTION, KOTTAYAM;
REPRESENTED BY ITS DIRECTOR,
AJAY GEORGE VARGHESE, AGED 51 YEARS,
S/O. LATE GEORGE VARGHESE, RESIDING BIPHA HOUSE,
KIZHAKKE MURI ROAD, DEVALOKAM P.O.,
MUTTAMBALAM KARA, MANGANAM VILLAGE,
KOTTAYAM TALUK, KOTTAYAM DISTRICT, PIN - 686001

BY ADVS. SHRI.S.RANJIT (K/250/1999)
SRI.GOKUL DAS V.V.H.
SMT.VINEETHA SUSAN ABRAHAM

RESPONDENTS:

- 1 KERALA STATE ELECTRICITY BOARD LTD.,
REPRESENTED BY ITS CHAIRMAN, VYDHYUTHI BHAVANAM,
PATTOM, THIRUVANANTHAPURAM, PIN - 695004
- 2 THE CHIEF ENGINEER (DISTRIBUTION) SOUTH,
KERALA STATE ELECTRICITY BOARD LTD.,
VYDHYUTHI BHAVANAM, PATTOM,
THIRUVANANTHAPURAM, PIN - 695004
- 3 THE DEPUTY CHIEF ENGINEER,
KERALA STATE ELECTRICITY BOARD LTD.,
ELECTRICAL CIRCLE, POOVANTHURUTHU,
KOTTAYAM, PIN - 686012



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- 4 THE ASSISTANT EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD LTD.,
ELECTRICAL SUB DIVISION, ETTUMANOOR,
KOTTAYAM, PIN - 686631
- 5 THE ASSISTANT ENGINEER,
KERALA STATE ELECTRICITY BOARD LTD.,
ELECTRICAL SECTION, ETTUMANOOR,
KOTTAYAM, PIN - 686631
- 6 KERALA SMALL INDUSTRIES DEVELOPMENT CORPORATION
LTD., REPRESENTED BY ITS CHAIRMAN, P.B. NO. 50,
HOUSING BOARD BUILDING, SANTHI NAGAR,
THIRUVANANTHAPURAM, PIN - 695001

ADDL.R7 DISTRICT COLLECTOR, KOTTAYAM,
COLLECTORATE, KOTTAYAM, PIN: 686 002

ADDL.R8 ADDITIONAL TAHSILDAR (R.R),
KOTTAYAM, MINI CIVIL STATION,
KOTTAYAM, PIN: 686 001

[ADDITIONAL R7 AND R8 ARE IMPEADED AS PER THE
ORDER DATED 12.11.2025 IN IA 02/2025 IN THE
WP(C)]

BY ADV SRI.RIJI RAJENDRAN, SC
SRI. P.U. SHAILAJAN, SC
SMT. DEVI SHRI R, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR HEARING
ON 11.02.2026, THE COURT ON 10.04.2026 DELIVERED THE
FOLLOWING:

**JUDGMENT**

The petitioner in this writ petition is a private limited company engaged in the manufacture of Ayurvedic medicines, having its factory in Sheds No. B1, B2, B3 and B4 at the Industrial Estate, Ettumanoor, Kottayam, maintained and managed by the 6th respondent, Kerala Small Industries Development Corporation Limited. In connection with its expansion and requirement of additional space within the industrial estate, the Managing Partner of Vazhakala Rubber Industries transferred 38 cents of land and executed Exts.P1 and P2 consent letters. Thereafter, Ext. P3 order dated 28.03.2012 was issued by the 6th respondent, followed by the execution of Ext.P4 agreement dated 23.04.2012 between the petitioner and the 6th respondent.

2. Pursuant thereto, the petitioner commenced utilisation of the electric connection available in the shed situated in the said property, bearing Consumer No.5525 under the 1st respondent



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Board. Subsequently, Ext.P5 communication dated 07.07.2016 was issued to M/s Vazhakala Rubber Industries stating that, in compliance with the judgment dated 01.10.2013 in W.P.(C) No. 23997/2013, a revised bill for Rs.5,04,362/- had been issued on 04.12.2015 and that the service connection would be dismantled if the amount was not remitted within 15 days. On receipt of the said communication, the petitioner informed the 4th respondent that the property had already been transferred in its favour and sought 30 days to address the issue with the erstwhile owner. The request was declined, and the service connection was disconnected and dismantled by the 1st respondent.

3. Thereafter, the petitioner continued its operations using another connection with a connected load of 70,000 Watts, with the consent of respondents 1 to 5. In connection with further expansion of its manufacturing activities, the petitioner submitted Ext.P8 application dated 20.03.2025, before the 1st respondent, seeking additional power allocation, remitted the prescribed fee, and



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received Ext.P10 acknowledgment dated 26.03.2025 from the 5th respondent.

4. On enquiry regarding the status of the application, the petitioner was informed that a new connection would be granted only upon remittance of the arrears referred to in Ext. P5, which are stated to be dues of M/s Vazhakala Rubber Industries. The petitioner contends that, under the Electricity Supply Code, 2014, arrears are recoverable only from the previous consumer and not from a subsequent purchaser or occupier. The petitioner also asserts the absence of privity of contract with the Board in respect of the earlier connection and contends that no liability can be fastened upon it in relation to dues of the erstwhile consumer.

5. It is further contended that under Section 43 of the Electricity Act, 2003, the distribution licensee is statutorily bound to supply electricity to an owner or occupier within one month of receipt of a valid application. Sub-section (3) to Section 43 provides for the imposition of a penalty for failure to do so within the



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stipulated period. According to the petitioner, the 1st respondent is under a statutory obligation to provide electric supply within the prescribed time and may insist only upon compliance with the deposit requirement under the Code; however, in the present case, such insistence is unjustified, particularly in view of the lapse of nine years from the date of disconnection.

6. Further, the petitioner filed I.A. No. 1/2025 stating that when the writ petition came up for admission on 11.04.2025, this Court admitted the matter and directed that an electric connection be provided to the petitioner on deposit of a sum of Rs. 5,46,970/- towards the dues of the previous owner. The said interim order clarified that the payment would be provisional and subject to further orders of this Court. Pursuant thereto, the petitioner remitted the amount, and a new connection was granted by the 1st respondent Board.

7. The petitioner seeks a direction to respondents 1 to 5 to



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consider and pass orders on Exhibit-P8 application for a new electricity connection in accordance with Regulation 40 of the Kerala State Electricity Supply Code, 2014, a declaration that the petitioner is not liable to pay the arrears reflected in Exhibit-P5 as the same are recoverable from the previous owner, and a consequential direction for refund of the amount of Rs.5,46,970/- remitted by the petitioner pursuant to the interim order of this Court for obtaining the electricity connection.

8. In the counter affidavit filed by respondents 1 to 5, it is stated that the insistence on deposit of arrears as a condition for granting a new connection is strictly in terms of Regulation 40(3) of the Kerala Electricity Supply Code. The said provision stipulates that where a service connection has been disconnected for default in payment, a fresh connection shall not be granted to a purchaser or occupier unless the arrears, excluding interest, are paid or deposited. According to the respondents, Regulation 40(3) embodies a balanced mechanism intended to safeguard the financial and



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operational interests of the distribution licensee while protecting a bona fide subsequent occupier by limiting the liability to the principal arrears alone.

9. It is further pointed out that the proviso to Regulation 40(3) mandates release of the deposited amount, together with interest at the bank rate prevailing on the date of deposit, upon the occurrence of any one of the following contingencies: recovery of arrears from the previous consumer through appropriate legal proceedings, settlement of dues by the previous consumer, or expiry of three years from the date of deposit. Thus, the deposit is only a temporary measure to secure the arrears until recovery is effected from the actual defaulter.

10. Reliance is placed on the judgment of the Hon'ble Supreme Court in *K.C. Ninan v. Kerala State Electricity Board and Ors.* [MANU/SC/0604/2023], wherein it was held that conditions of supply requiring payment of electricity dues of a previous owner as



a precondition for the grant of a new connection have a clear nexus with the statutory scheme and are just and reasonable. Though the decision specifically examined Clause 15(e) of the Conditions of Supply of Electrical Energy, 1990, it is contended that the reasoning equally applies to Regulation 40(3) of the present Code.

11. Reliance is also placed on *Paschimanchal Vidyut Vitran Nigam Ltd and Others v. DVS Steels and Alloys Private Limited and Others* [(2009) 1 SCC 210], to contend that electricity dues are statutory in character and can validly be insisted upon before effecting a fresh supply. The respondents assert that the right under Section 43(1) of the Electricity Act, 2003, is not absolute and is subject to compliance with the regulatory framework framed under Sections 50 and 181 of the Act. Regulation 40(3), being a valid piece of delegated legislation, binds both the licensee and the applicant. It is also contended that private arrangements or transfer of property do not override statutory obligations. Clause 10 of Ext.P4 agreement, dealing with statutory dues payable in respect



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of the property to constituted authorities, would encompass electricity arrears as well.

12. Lastly, it is submitted that the earlier supply was disconnected on account of default, and despite being in possession of the premises for several years, the petitioner did not seek a fresh connection or challenge the demand on time. The respondents contend that mere lapse of time does not extinguish the requirement of deposit under the Code, and the plea based on limitation is misconceived.

13. In the statement filed by the 7th respondent, District Collector, Kottayam, it is stated that Thomas Thomas is the defaulter of the KSEB dues to the tune of Rs. 6,00,558/- and as per the requisition received from the Executive Engineer, Electrical Division Vaikom, the District Collector, Kottayam has issued RRC No. 2017/2629/05 dated 27.06.2017 against Sri. Thomas Thomas, S/o Thomas, Vazhakkala Rubbers, Ettumanoor on 18.07.2017 and



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authorised Tahsildar (Revenue Recovery) Kottayam to recover the said amount from the defaulter w.e.f 02.09.2016. Accordingly, the Tahsildar has issued a revenue recovery notice under Sections 7 and 34 of the Kerala Revenue Recovery Act against the defaulter through the Village Office, Ettumanoor. Tahsildar reported that the defaulter was residing in Vakathanam Village of Changanassery Taluk, and as per the report of the Village Officer, the whereabouts of the defaulter are not known, and he has no properties to recover the dues. As per the report of Vakathanam Village Officer, Changanassery Tahsildar returned RRC No.2017/2629/05 on 30.10.2018 to the Requisition Authority.

14. Heard Sri. S Ranjit, learned counsel for the petitioner, and Sri. Riji Rajendran and Smt. Mitha Sudindran, learned Standing Counsel for the Kerala State Electricity Board, Sri. P.U. Shailajan, learned Standing Counsel, Small Industries Development Corporation and Smt. Devi Shri R, the learned Government Pleader.

15. The learned counsel for the petitioner contends that



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Section 56(2) of the Electricity Act, 2003 provides that, notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer under that Section shall be recoverable after a period of two years from the date on which such sum became first due, unless it has been shown continuously as recoverable as arrears of charges for electricity supplied; and the licensee shall not disconnect the supply of electricity on such ground. It is further submitted that Regulation 136(3) of the Kerala Electricity Supply Code similarly stipulates that no amount due from any consumer on account of default in payment shall be recoverable after two years from the date when such sum became first due, unless it has been shown continuously as recoverable arrears of charges for electricity supplied.

16. It is further contended that the petitioner became aware of the arrears of the previous consumer only upon receipt of Ext.P5 communication, issued pursuant to the revised bill dated 04.12.2015 in compliance with the judgment in W.P.(C) No. 23997/2013. It is



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pointed out that the subsequent revenue recovery proceedings were halted on 30.10.2018 and that the respondents had not continuously shown the arrears as recoverable. The service connection was dismantled in 2016, and the disconnection had occurred even earlier. Therefore, according to the petitioner, in view of Section 56(2) of the Electricity Act read with Regulation 136(3) of the Kerala Electricity Supply Code, the Board is barred from recovering any amount even from the previous consumer.

17. On that premise, it is argued that the question of obtaining orders for recovery from an appropriate legal forum does not arise and that the respondents cannot retain the amount deposited by the petitioner pursuant to the interim order dated 11.04.2025. The petitioner submits that it cannot be compelled to await recovery proceedings indefinitely, especially when such recovery is allegedly time-barred. It is contended that the petitioner should not suffer due to the alleged negligence or laches on the part of the Board in pursuing recovery against the previous consumer. As there is no



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privity of contract between the petitioner and the Board in respect of the earlier connection, the petitioner asserts that no liability can be imposed upon it for the unpaid dues of the previous consumer.

18. It is further argued that the Electricity Act does not contain any provision creating a statutory charge over the property in respect of electricity arrears or rendering such dues enforceable against a transferee. In the absence of an express statutory provision, electricity arrears cannot constitute a charge or encumbrance over the premises. On the above grounds, the petitioner seeks a refund of the amount deposited pursuant to the interim order in I.A. No. 1/2025.

19. In opposition, respondents 1 to 5, contend that the Court, while examining Regulation 40(3) in respect of a subsequent purchaser to arrive at an equitable decision, has to consider the date of accumulation of arrears, the steps taken by the licensee for recovery, the mode of transfer, whether by sale, mortgage or lease,



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the terminology of the clauses effecting transfer, whether it is an “as is where is” transfer, and any ancillary litigation disputing the factum of arrears.

20. It is pertinent to mention that prior to the 2024 amendment (effective from 26.07.2024), the said regulation stipulated a three-year period for KSEBL to retain the deposit from the subsequent occupier. It is submitted that for recovery of arrears, KSEBL can resort to, broadly, three methods: disconnection of electricity supply under Section 56 of the Electricity Act, 2003, followed by dismantling and appropriation of the security deposit upon continued default; revenue recovery under Section 71 of the Kerala Revenue Recovery Act, 1968; summary suit for money under Order XXXVII of the Code of Civil Procedure, 1908; and a suit for recovery under Order IV Rule 1 of the Code of Civil Procedure, 1908.

21. The most effective procedure to curb the accumulation of arrears would be timely disconnection upon default in payment so



as to keep the quantum of arrears within the security deposit available with KSEBL, followed by dismantling in accordance with the Supply Code, 2014. However, in cases where arrears exceed the security deposit, revenue recovery would be the most coercive form of recovery. If the defaulting consumer has no property in his/her/its ownership, or is a defunct legal person, recovery of arrears would become hindered.

22. The next argument put forth by the learned counsel is that the doctrine of *Caveat Emptor* would operate against the petitioner in this case, which means “*let the buyer beware.*” For any property transaction, a purchaser must conduct due diligence not only on the title, but also on the dues. This principle is well established by the Apex Court in ***Commissioner of Customs (Preventive) v. Aafloat Textiles (I) Pvt. Ltd. and Others*** [MANU/SC/0447/2009]. It is argued that if Regulation 40(3) of the Code is uniformly and consistently enforced, all purchasers of property will duly enquire whether there is a live service connection, whether there was a service



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connection which was dismantled, and whether there are any pending arrears of electricity. The purchaser cannot deny knowledge of the requirement to clear outstanding dues of the premises when these are provided for in the Supply Code. If the purchaser is aware of the existence of such arrears but wishes to engage in a sale, then the purchaser can contractually assume liability for such charges and accordingly bargain for a better price for the property.

23. It is further contended that the obligation to exercise due diligence is naturally heightened in cases where the sale is effected through auction or debt recovery proceedings, as such a transfer on an “as is where is” basis would include a condition of acknowledging all liabilities in respect of the said premises, with or without specific reference to the payment of electricity dues. If the vendor actively conceals the existence of such a defect, then an indemnity clause could legally protect such a purchaser, if he is able to prove that he had in fact exercised due diligence before the



purchase, as provided in Section 55 of the Transfer of Property Act, 1882.

24. It is also pointed out that Section 3 of the Transfer of Property Act, 1882, reinforces the concept of *Caveat Emptor*, subject to the exceptions made in Section 55. Section 100 of the said Act deals with charges, and while explaining the purport of Section 100, the Apex Court held in ***Dattatreya Shanker Mote and Others v. Anand Chintaman Datar and Others*** [(1974) 2 SCC 799], that the second half of Section 100 enacts a general prohibition and no charge can be enforced against property in the hands of a transferee for consideration without notice of the charge. It is further argued that Section 89(6) of the Registration Act, 1908 requires revenue officers issuing written demands for attachment of a defaulter's immovable property under the Revenue Recovery Act to send a copy and memorandum to the registering officer. The registering officer must then file this in Book No.1, ensuring that Encumbrance Certificates issued under Rules 168–175 of the Kerala



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Registration Rules read with Section 57 of the Registration Act, 1908, will reflect the arrears recoverable from land, upon reasonable inspection.

25. Relying on *Telangana State Southern Power Distribution Company Limited and Another v. Srividhya Beverages* [(2020) 6 SCC 404], it was argued that where a property is sold on an “as is where is, whatever there is and without recourse basis”, and the auction notice specifically discloses subsisting electricity dues, the purchaser is bound to clear such dues. It was held therein that electricity arrears, being statutory in character under the Electricity Act, 2003, and the terms and conditions of supply, cannot be treated as purely contractual liabilities capable of waiver.

26. Reliance was also placed on *Dakshin Haryana Bijli Vitran Nigam Ltd. v. Paramount Polymers (P) Ltd.* [(2006) 13 SCC 101], wherein it was held that an auction purchaser of premises sold on an “as is where is” basis cannot claim ignorance of subsisting



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electricity dues, and that a prudent purchaser is expected to conduct reasonable enquiry, which would reveal the existence of disconnection and attendant liabilities.

27. The right of a distribution licensee to deny electricity connection until outstanding dues are deposited is a continuing right and cannot be said to be extinguished by limitation, even if recovery of the arrears becomes barred by limitation. The respondents further relied on ***B. Parasmal and Another v. Kerala State Electricity Board, Represented by its Secretary and Others*** [2018 SCC OnLine Ker 16443], wherein this Court upheld the validity of Regulation 40(3) of the Kerala Electricity Supply Code and held that the requirement of deposit of arrears by a subsequent purchaser, as a condition for grant of a fresh connection, is not inconsistent with the provisions of the Electricity Act, 2003.

28. Reliance was also placed on ***Kerala State Electricity Board v. Kerala State Electricity Regulatory Commission*** [2012 (1) KLT 982],



wherein this Court emphasised the necessity of regulatory safeguards to prevent defaulting consumers from evading electricity arrears by transferring defaulted premises, and recognised the competence of the Regulatory Commission to incorporate such protective provisions in the Supply Code.

29. The principal issue that arises for consideration is whether the insistence on deposit of arrears under Regulation 40(3) of the Kerala Electricity Supply Code as a condition for grant of a fresh connection is legally sustainable, and whether Section 56(2) of the Electricity Act, 2003 bars recovery so as to entitle the petitioner to refund of the amount deposited pursuant to the interim order.

30. Regulation 40(1) makes it clear that arrears of electricity charges of a previous consumer shall be recovered from such previous consumer and not from a purchaser, lessee or occupier. However, Regulation 40(3) specifically contemplates a situation where the earlier service connection has been disconnected and



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dismantled for default. In such circumstances, while a new connection shall not be denied to a purchaser or occupier, the provision expressly mandates that such purchaser or occupier shall furnish a deposit equal to the arrears of electricity charges and other liabilities, excluding interest. The proviso to Regulation 40(3) further stipulates that the deposit shall be released, together with interest at the bank rate prevailing on the date of deposit, upon the occurrence of any one of the following contingencies: (i) the licensee obtaining orders from the appropriate legal forum for recovery of arrears; (ii) settlement of arrears by the previous consumer; or (iii) completion of three years from the date of deposit, whichever is earlier. This regulation was amended on 26.07.2024, and post the amendment, it removed the obligation upon KSEBL to return the deposited amount within a fixed term of three years.

31. The scheme of Regulation 40(3) thus reveals that the deposit is only a temporary security mechanism to safeguard the



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interests of the licensee until recovery proceedings against the actual defaulter attain finality or the stipulated period expires. The right of refund is therefore not absolute, but conditional, and arises only upon the contingencies expressly enumerated in the proviso. In the present case, none of the said contingencies has occurred so as to compel immediate refund of the deposited amount.

32. The petitioner places reliance on Section 56(2) of the Electricity Act, 2003 and Regulation 136(3) of the Supply Code to contend that recovery is barred after two years. Section 56(2) provides that no sum due from a consumer shall be recoverable after a period of two years from the date when such sum became first due, unless it has been shown continuously as recoverable as arrears of electricity supplied, and that the licensee shall not disconnect supply on such ground.

33. The scope of Section 56(2) has been authoritatively considered by the Hon'ble Supreme Court in *Assistant Engineer*



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(D1), Ajmer Vidyut Vitran Nigam Limited and Another. v. Rahamatullah Khan [(2020) 4 SCC 650] clarifying that Section 56(2) does not extinguish the underlying debt, nor does it preclude the licensee from raising a supplementary demand or pursuing other lawful modes of recovery. The provision restricts only the statutory right of disconnection after the expiry of two years from the date when the sum became first due, unless the arrears have been continuously shown as recoverable.

34. In the case at hand, the materials on record indicate that the revised bill was issued on 04.12.2015 pursuant to the judgment in W.P.(C) No. 23997/2013, and revenue recovery proceedings were initiated in the year 2017, well within two years from the date on which the sum became first due. The service connection was also dismantled on account of default. In view of the law laid down in **Rahamatullah Khan** (supra), initiation of recovery proceedings within the statutory period preserves the right of the licensee to pursue recovery. Section 56(2), therefore, cannot be construed as



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barring recovery in the present case, nor can it be invoked to invalidate the operation of Regulation 40(3). The respondent also relies on *Abdul Vahab v. Kerala State Electricity Board, Tvm and Others* [2015 (4) KHC 57], in which this Court, while considering the period of limitation applicable to arrears accumulated under the 1948 Electricity Act, observed that the applicable legal framework is determined by the period during which the arrears of electricity charges actually accumulated. The dues in this case pertained to the period 1996 to 2001. During such period, the Electricity (Supply) Act, 1948 was in force, along with the Regulations Relating to the Conditions of Supply of Electrical Energy, 1990. Since the arrears arose entirely under the old regime (1948 Act), the court applied the provisions of that Act and the Limitation Act 1963, rather than the new Electricity Act, 2003. The court explicitly distinguished the situation from, what it would be under the Electricity Act, 2003. Because the arrears fell under the Electricity (Supply) Act, 1948 regime, the court applied Article 62 of the Limitation Act, 1963,



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which provides a period of 12 years to enforce payment of money charged upon immovable property. The court found that the Kerala State Electricity Board (KSEB) had initiated the requisition for revenue recovery in December 2002. Since the arrears were from 1996-2001 and the requisition was made in 2002 (well within 12 year period from the date the dues became due), the claim was held to be not barred by limitation.

35. The right under Section 43 of the Electricity Act to obtain supply on application is not unqualified, but one that is subject to compliance with the statutory and regulatory framework. Regulation 40(3), framed in exercise of powers under Sections 50 and 181 of the Act, constitutes a valid condition governing the grant of a fresh connection where arrears of a previous consumer subsist. The insistence on deposit of the principal arrears, excluding interest, is therefore in accordance with the binding regulatory regime.



36. In the light of the above discussion, it is evident that the action of the 1st respondent in insisting upon deposit under Regulation 40(3) cannot be termed arbitrary or illegal. The petitioner, having obtained a fresh connection pursuant to the interim order on deposit of the stipulated amount, is entitled to a refund only in accordance with the contingencies specified in the proviso to Regulation 40(3). The said provision is attracted upon an application for fresh supply in respect of premises where the earlier connection stood disconnected and dismantled due to default. In the present case, since the application for fresh connection was submitted subsequent to the amendment to Regulation 40(3), the amended provision governs the field. Consequently, the petitioner cannot claim a refund of the deposit on the expiry of three years, and such a refund would arise only upon the occurrence of the contingencies presently stipulated under the amended provision. Accordingly, the amount deposited shall be dealt with strictly in terms of the amended Regulation 40(3) of the Kerala Electricity



Supply Code.

37. Before parting, it is apposite to refer to the observations made by the Division Bench of this Court in ***Kerala State Electricity Board*** (supra), wherein the writ appeal filed by the Kerala State Electricity Board challenging the rejection by the Kerala State Electricity Regulatory Commission of its request to consider amendments to the Supply Code was considered. The Division Bench directed the Commission to reconsider the request made by the Board for the amendment and incorporation of appropriate provisions in the Supply Code. While doing so, it was observed that the existing Supply Code does not contain any provision disabling a consumer from transferring premises in respect of which electricity dues remain unpaid, nor does it contain any provision disqualifying such premises from obtaining a fresh electricity connection without clearing the arrears relating to the previous connection. The Court also noticed that there is presently no safeguard in the Code to ensure that, prior to the transfer of property, the defaulting



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consumer and the purchaser make arrangements for payment of outstanding electricity dues. It was further observed that although electricity dues could have been made a statutory charge on the premises, Parliament has not chosen to do so.

38. In that context, the Division Bench indicated that the Regulatory Commission may examine the possibility of introducing appropriate provisions so as to address such situations, including the scope of evolving a mechanism whereby a new electricity connection to premises burdened with arrears is regulated with reference to the clearance of such dues, thereby ensuring that prospective purchasers remain conscious of such liabilities and make appropriate arrangements while fixing the consideration for the property prior to purchase. The Commission was accordingly directed to consider making suitable provisions in the Supply Code, keeping in view the observations of the Hon'ble Supreme Court in *Paschimanchal Vidyut Vitran Nigam Ltd* (Supra).



39. Having regard to the observations made by the Division Bench and the recurring nature of disputes of the present kind, the Kerala State Electricity Regulatory Commission shall examine the necessity of incorporating appropriate provisions in the Kerala Electricity Supply Code, 2014, by invoking the powers available under Regulation 179, which enables the Commission to address difficulties arising in the implementation or interpretation of the Code. In undertaking such an exercise, the Commission may also utilise the mechanism of the Electricity Supply Code Review Panel constituted under Regulations 166 to 170 of the Supply Code for proposing suitable amendments upon suggestions received from the licensee, consumers or other stakeholders.

40. The Commission shall further examine the feasibility of introducing provisions requiring disclosure of electricity arrears relating to premises at the time of transfer of the property having an electric connection, including the possibility of insisting upon a 'No Dues Certificate' in respect of electricity charges so that a



prospective purchaser is placed on notice regarding pending electricity dues and is enabled to make appropriate arrangements while fixing the consideration for the property and before seeking continuation of electricity supply.

41. The State Government and the distribution licensee shall also explore the feasibility of evolving an appropriate mechanism whereby, at the stage of registration of transfer of immovable property having an electricity connection or building with electricity supply, production or verification of a certificate or information regarding pending electricity dues from the electricity licensee is ensured. The State Government may also examine the possibility of incorporating suitable provisions under the Registration Act, 1908 and the relevant registration rules to provide for verification of such certificate as a document to be produced or verified at the time of registration of instruments relating to such property, thereby ensuring that the purchaser is informed of any outstanding electricity dues and is enabled to make necessary



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arrangements for settlement of the same while determining the consideration for the property.

The Registry is directed to forward a copy of this judgment to the Chief Secretary, Government of Kerala and also to the Chairman, Kerala State Electricity Board, for compliance.

The writ petition is disposed of as above.

Sd/-

MOHAMMED NIAS C.P.

JUDGE

DMR/-



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APPENDIX OF WP(C) NO. 16139 OF 2025

PETITIONER'S EXHIBITS

- | | |
|-------------|--|
| Exhibit-P1 | TRUE COPY OF THE CONSENT LETTER DATED 29.10.2011. |
| Exhibit-P2 | TRUE COPY OF THE CONSENT LETTER DATED 19.12.2011. |
| Exhibit-P3 | TRUE COPY OF THE ORDER DATED 28.03.2012 BEARING NO. IE(2)/ETR/18319/81 PASSED BY THE 6TH RESPONDENT. |
| Exhibit-P4 | TRUE COPY OF THE AGREEMENT DATED 23.04.2012 ENTERED INTO BETWEEN THE PETITIONER AND THE 6TH RESPONDENT. |
| Exhibit-P5 | TRUE COPY OF THE COMMUNICATION DATED 07.07.2016 BEARING NO. BB/ETR/DM NOTICE/2016-17/23 ISSUED BY THE 5TH RESPONDENT. |
| Exhibit-P6 | TRUE COPY OF THE LETTER DATED 25.07.2016 SENT BY THE PETITIONER TO THE 4TH RESPONDENT. |
| Exhibit-P7 | TRUE COPY OF THE REPLY DATED 27.06.2016 BEARING NO. DB25/GENERAL/ESD-ETR/16-17 SENT BY THE 4TH RESPONDENT TO THE PETITIONER. |
| Exhibit-P8 | TRUE COPY OF THE APPLICATION DATED 20.03.2025 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT BOARD. |
| Exhibit-P9 | TRUE COPY OF THE RECEIPT DATED 26.03.2025 ISSUED TO THE PETITIONER. |
| Exhibit-P10 | TRUE COPY OF THE ACKNOWLEDGEMENT DATED 26.03.2025 ISSUED BY THE 5TH RESPONDENT. |