

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
C. P. No. D – 3881 of 2014

Date	Order with Signature of Judge
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Priority

1. For hearing of CMA No.19637/14 (stay)
2. For hearing of main case

15.02.2021

Mr. Zulfiqar Haider Shah, advocate a/w Dr.Arshad Secretary of Society
Mr. Waleed Khanzada, advocate for KW&SB
Mr. Ali Safdar Deepar, AAG

This petition was filed by the Karachi University Cooperative Housing Society challenging the bulk bill issued by the Karachi Water and Sewerage Board for the entire society. It is a case of the petitioner that the individuals are being issued their respective bills which are being paid since 2013, however, since 2013 all of sudden the Board started issuing bulk bills in the name of society. It is claimed that the petitioner is not a direct consumer for those individuals' consumption, the bulk bill was issued under the policy and after the connection was granted to the society for onwards connection to the individuals. Hence the individuals are being taxed exorbitantly.

We have noticed that privity of contract is between society and KW&SB. Vide detailed order passed on 02.02.2021 whereby the petitioner-society was put on notice to make a mechanism as to how the outstanding amount of Rs. 21 million in respect of Water & Sewerage facilities is to be paid.

After hearing the learned counsel for parties at some length, at the outset, Mr. Zulfiqar Haider Shah, learned counsel for the petitioner-society submits that the society may be given a reasonable time to deposit and adjust the outstanding amount as the entire amount cannot be paid in a lump sum. Mr. Waleed learned counsel for KW&SB reluctantly agreed that if a reasonable time is given, he would not object and he is agreed to four installments of the outstanding amount i.e., approximately Rs.5 million each.

It is agreed that the first installment of Rs.5 million shall be paid in two months, the second installment within four months from the date of this order. It is further agreed that KW&SB shall deduct the penalty and or late payment surcharge out of the claimed amount of Rs.21 million and/or any extra charges and the balance remaining amount shall further be paid in two equal installments after deducting the additional amount already paid by the petitioner during the period w.e.f., 2012 to 2014. Mr. Waleed may also take into consideration the amount paid by individual members of society directly as they were independently issued the bills and the leftover balance amount shall further be paid in two installments for which reasonable time is agreed i.e., six months to each installment. In case any installment is not paid in the stipulated time or is avoided, the entire outstanding amount including interest, penalty, and or late payment surcharge shall be recoverable by the respondent/KW&SB as they may deem fit and appropriate.

Before parting with this order, we may observe that under the Cooperative Societies Act, 1925, the Housing society is formed with the sole object of providing its members with dwelling houses on conditions to be determined by its by-laws; and, its members are part and parcel of the society and they cannot be absolved from consumption of water charges, if not paid earlier to either society or Karachi Water and Sewerage Board and it is for the office bearers of society to look into the affairs and pay to the Government its dues owed to society under the law. However, heavy responsibility lies on its office bearers who are public servants under section 65-B of the Cooperative Societies Act, 1925. So far as recovery of sums due to the Government section 65 of Cooperative Societies Act, 1925, provides the complete mechanism.

With the above observations, this petition along with the listed application stands disposed of.

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