

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.11.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.33934 of 2015 &
M.P.No.1 of 2015

P.Subramaniyan

[PETITIONER]

Vs

1 Tamil Nadu Electricity
Generation and Distribution Company
(TANGEDCO) Rep. by its Assistant Electricity Engineer
Thirunavalur, Panruti Taluk
Villupuram District.

2 The Superintending Engineer
(Appellate Authority)
Villupuram Electricity Distribution Circle
Tamil Nadu Electricity Generation
and Distribution Company (TANGEDCO)
Villupuram.

3 The Chairman
Tamil Nadu Electricity Board Anna Salai
Chennai-2.

[RESPONDENTS]

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of certiorari to call for the records from the 1st Respondent relating to the orders dt. 11.09.2015 bearing reference No.T.N.A.E.E/E&Pa/Thiruna/Tho.Mi.Thiruttu/K.No. 104/15-16 and quash the same as the same being illegal arbitrary without jurisdiction.

For Petitioner : Mr.S.Saravanakumar

For Respondents : Mr.M.Varun Kumar

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2.Heard Mr.S.Saravanakumar, learned counsel appearing for the petitioner and Mr.M.Varun Kumar, learned counsel appearing for the respondents.

3.The petitioner has challenged the demand issued by the first respondent dated 11.09.2015, demanding from the petitioner a sum of Rs.1,74,490/-. This according to the first respondent is the amount payable in an assessment proceedings dated 11.4.2003, pursuant to a show cause notice dated 31.01.2003, relating to theft of energy in respect of Service Connection No.164, T.F.V, Siralapattu village. The said assessment notice has been addressed to two persons viz. one J.Veerappan, owner of the land and the second person is the petitioner P.Subramaniyan, the lessee. In the said assessment order, the total amount payable was Rs.1,79,490/-. Apart from that a criminal case has also been registered against the petitioner as well as the owner of the land and the criminal case is pending. The petitioner is said to have preferred an appeal to the Superintending Engineer-R2/appellate authority on 24.6.2003 and the appeal is said to be pending and the postal acknowledgement card has been produced by the petitioner to show that the appeal papers have been received by the appellate authority. Whiles, the impugned demand has been issued.

4.The only reason given in the impugned demand is by referring to the order passed in W.P.No.2758 of 2004 dated 13.2.2004. The said Writ Petition was filed by the owner of the land Mr.J.Veerappan, seeking to quash the demand made against him, by stating that he has leased out the property to P.Subramaniyan. The said Writ Petition was allowed on the ground that since the property had been leased out, the owner cannot be penalised. However, it was made clear that the order passed in that Writ Petition would not preclude the respondents to recover the consumption charges in accordance with law. Pursuant to the same, the present impugned notice has been issued.

5.It is seen that the liberty granted by this Court in the earlier proceedings has been misconstrued by the respondents as liberty was granted to proceed in accordance with law and therefore, impugned notice is not sustainable.

6.Accordingly, the Writ Petition is allowed and the impugned order is set aside. The second respondent is directed to decide the appeal filed by the petitioner dated 24.6.2013, against the assessment order dated 11.4.2003, within a period of three weeks from the date of receipt of a copy of this order,

after affording an opportunity of personal hearing to the petitioner. No costs. Consequently, connected Miscellaneous Petition is closed.

rpa

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

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 - 3 The Chairman
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Chennai-2.
- + 1 cc to M/s.M.Varunkumar, Advocate SR 60648
- + 1 cc to Mr.S.Saravanakumar, Advocate SR 59744

(co)
prk20/11

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