

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.4601 of 2013

-

Dated 11th June, 2015

Between:

V.V.Suryanarayana and another

...Petitioners

and

The Chairman/Managing Director, Organisation Circle, APEPDCL, Visakhapatnam
and others

...Respondents

Counsel for the petitioners: Sri J.S.N.Sudhakar

for Smt.Kamla Seelam B.

Counsel for the respondents: Sri P.Anand Seshu

The Court made the following:

ORDER:

This writ petition is filed by the petitioners, who are LT consumers of electricity bearing two service connection Nos.9851 and 3952 in category-II, for a mandamus to declare the action of respondent No.3 in demanding to pay an amount of Rs.69,760.98 ps without passing final assessment order as illegal and arbitrary.

Respondent No.3 earlier made a provisional assessment for the loss sustained on account of alleged theft of energy. In W.P.No.11447 of 2010 filed by the petitioners, this Court has set aside the said provisional assessment order and directed respondent No.3 to

make a fresh provisional assessment. Following the same, respondent No.3 issued provisional assessment for a sum of Rs.16,796/-. As the petitioner has already paid Rs.25,454/- under the previous provisional assessment, the excess payment of Rs.8,658/- was adjusted by respondent No.3 in the petitioners' future bills.

Under Section 154(5) of the Electricity Act, 2003, competent civil Court is required to determine the civil liability of the petitioners for the alleged theft of electricity. Inasmuch as the petitioners have already paid the entire provisional assessment amount, I do not find any justification for the respondents in not referring the case to a civil Court for determining the petitioners' civil liability.

Accordingly, the writ petition is disposed of with the direction to respondent No.3 to refer the dispute relating to the civil liability of the petitioners to the competent civil Court within a period of two months from the date of receipt of a copy of this order.

As a sequel to disposal of the writ petition, W.P.M.P.No.5744 of 2013 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

11th June, 2015

VGB