

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

WRIT PETITION NO.23386 OF 2012

DATED:12-6-2015

Between:

Sri Sankarlal Chowdary

... Petitioner

And

Eastern Power Distribution Company
of Andhra Pradesh Ltd.,
Rep. by its Chairman and Managing Director
Corporate Office, Seethammadhara,
Visakhapatnam
and others

... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. G. Rama Gopal

COUNSEL FOR THE RESPONDENTS: Mr. P. Anand Seshu,
Standing Counsel for
Eastern Power Distribution
Company of A.P. Ltd.,

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a Mandamus to set aside the proceedings in ADE/E/DSP/F, Dkt.146/11-12, D.No.312/12, dt.16.2.2012, of respondent No.3 and proceedings No.SAP.2957/C.VSP/D, Zone-I/SD.D-VSP/A.F.1019/D.No.533, dated 31.5.2012, of respondent No.2.

Shorn of unnecessary details, the dispute between the parties pertains to whether the petitioner has misused the electricity released for domestic purpose under LT Category-I for commercial purpose, namely, modification of the residential premises as 'lodge'. Respondent No.3 has made a provisional assessment for a sum of Rs.1,12,666/- towards the differential tariff representing two times the normal charges. After notice to the petitioner, respondent No.3 has made final assessment on 13.3.2012 confirming the provisional assessment.

The learned counsel for the petitioner while not seriously disputing the charge that his client has used electricity released for domestic purpose for conversion of the premises into lodge, however, seriously disputed the period for which the assessment was made.

Under Section 126(5) of the Electricity Act, 2003, if the Assessing Officer reaches to the conclusion that unauthorized use of electricity has taken place, the assessment can be made for the entire period for which such unauthorized use of electricity has taken place. However, if the period during which such unauthorized use of electricity has taken place cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.

In the counter affidavit filed by respondent No.3, it is stated as under:

“At the time of inspection, it was found that lodge is not occupied by any occupant and it is still a ‘godown only.’ On enquiry from the surrounding areas it is learnt that the building was converted as Lodge cum Godowns from 3 days back to the date of inspection. The First Floor is being remodeled from residential to lodge and it is not being used as residence. The SC. No:058251 is being used for modifications of lodge.”

The above reproduced averments would show that the petitioner has started conversion into lodge a few days prior to the inspection. Therefore, taking twelve months as the period of assessment is highly arbitrary. This Court, by interim order, dt.31.7.2012, has granted stay of disconnection of power supply subject to the petitioner depositing with the respondents 50% of the final assessment amount. At the hearing, it has come out that the amount was already paid by the petitioner. Therefore, in the facts and circumstances of the case, I feel it appropriate that the liability of the petitioner is restricted to the amount already paid.

Accordingly, the writ petition is partly allowed to the extent indicated above.

As a sequel to disposal of the writ petition, W.P.M.P. No.29874 of 2012 and W.V.M.P. No.4016 of 212 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

12-6-2015

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