

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

Writ Petition No.20518 of 2011

Dated 19th June, 2015

Between:

Immediseti Kasi Charan and another

...Petitioners

And

The A.P.Eastern Power Distribution Co., Ltd., rep.by its Assistant
Divisional Engineer, Operation Sub Division, APEPDCL,
Rampachodavaram (PO) & (M) E.G.District and others

...Respondents

Counsel for the petitioners: Sri P.Narasimha Rao

Counsel for respondent Nos.1 to 3: Sri P.Anand Seshu

Counsel for respondent No.4: Sri Srinivasa Rao P.

The Court made the following:

ORDER:

This writ petition is filed for the following substantive relief:

“...to issue an appropriate Order, Writ or Direction more particularly one in the nature of Writ of Mandamus under Article 226 of Constitution of India by declaring that (a) (1) the impugned provisional assessment notice of the 1st respondent issued in his letter No.ADE/O/RCVRM/ASO/F.DOCK/D.No.651/10, dt.21.12.2010 for an assessment of Rs.1,18,802/- for a period from 06.12.2009 to 06.12.2010 on the alleged theft/pilferage of electricity to service connection number 2765 of Rampachodavaram and providing for fixing final assessment amount as violative of Sec.154(5) of the Electricity Act, 2003, (2) the Term No.10-2-3 (a) that if the consumer desires restoration of supply, he should deposit atleast 50% of the provisionally assessed amount of loss of revenue in addition to other charges in the event of failure on the part of the consumer to deposit atleast 50% of the amount provisionally assessed, the service may remain disconnected. (b) Term No.10.2.3 (b): that the licensee may

allow the consumer to pay the balance 50% amount in reasonable instalments. If the consumer does not pay the balance amount as per the instalments granted, the licensee may disconnect supply as per the provisions under Section 56 of the Act, framed by the Electricity Regulatory Commission as highly illegal, arbitrary, unjust, contrary to Sec.154(5) of the Electricity Act, 2003 and thus cease to operate.”

At the hearing, the learned counsel for the petitioners submitted and the same is not disputed that even before the writ petition is filed, the petitioners have paid 50% of the provisional assessment amount along with compounding fee. He has further stated that as the petitioners’ civil liability is required to be adjudicated by the Special Court under Section 154(5) of the Electricity Act, 2003 (for short ‘the Act’) the respondents may be directed to refer the dispute to the Special Court.

Sri P.Anand Seshu, learned Standing Counsel appearing for respondent Nos.1 to 3, submitted that as the petitioners have already paid 50% of the provisional assessment amount and the compounding fee, his clients have no objection for referring the dispute to the Special Court.

In view of the above submissions of the learned counsel for the parties, the writ petition is disposed of with the direction to respondent No.2 to refer the dispute relating to the petitioners’ civil liability to the Special Court under Section 154(5) of the Act within a period of two months from the date of receipt of a copy of this order. Till determination of the petitioners’ civil liability, respondent Nos.1 to 3 shall not recover the balance provisional assessment amount from them.

As a sequel to disposal of the writ petition, W.P.M.P.No.24900 of 2011 and W.V.M.P.No.4163 of 2011 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

19th June, 2015

VGB