

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2016

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 22464 of 2016
&
W.M.P. No. 19184 of 2016

M. Arumugam

..Petitioner

Vs.

1. The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai - 600 003.
2. The Executive Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Perundurai - 638 052,
Erode District.
3. The Assistant Engineer/Rural,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Erode Electricity Distribution Circle,
Perundurai - 638 052,
Erode District.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order made in Lr.No. AE/R/Peru./File Sep./A No. 175/2016 dated 04.05.2016 passed by the 3rd respondent, quash the same and consequently direct the respondents to grant three domestic electricity service connections to the petitioner for D.Nos. 3/162, 3/163 and 3/164, Perumampalayam Pirivu, Pattakaranpalayam Village, Perundurai Taluk, Erode District.

For Petitioner :: Mr.N. Manokaran

For Respondents:: Mr.S.K. Raameshuwar

O R D E R

The petitioner is running a firm, which is engaged in the business of weaving of cotton fabrics with the help of 16 Auto Looms with the capacity of sanctioned demand of 111.77KW bearing Service Connection No. 860-III B. According to the petitioner, his unit has no need or necessity to use more than the sanctioned demand of 111.77KW. While so, the 2nd respondent visited the petitioner's unit and informed that the unit had reached the maximum demand of 154.08KW in the month of October, 2012, which is beyond the permitted load of 111.77KW and demanded Rs.1,22,573/- towards penalty for the maximum demand KW and Rs.2,02,898/- towards monthly consumption charges and has also issued the order dated 29.10.2012 on the same day. According to the 2nd respondent, the sum of Rs.1,22,573/- demanded is the penalty of 1.5% for every KW, over and above 111.77 KW as the petitioner's unit had reached the maximum demand of 154.08KW in the month of October, 2012 beyond the permitted load of 111.77KW. The said demand was challenged by the petitioner by filing a writ petition in W.P. No. 30358 of 2012 and an order of interim stay was granted on 09.11.2012 and it was extended periodically till 31.01.2013. Thereafter, since the writ petition could not be listed, the interim order was not extended.

2. Subsequently, on 05.01.2016, the petitioner applied for 3 domestic service connections for the workers' quarters. The said application was not processed by the 2nd respondent stating that the petitioner had not paid the due of Rs.1,22,573/-, which is the subject matter of W.P. No. 30358 of 2012 and moreover, as the interim order of stay, granted earlier, was not in force, by the impugned order, the petitioner was asked to pay the due amount of Rs.1,22,573/-, as a pre-condition for giving domestic connections sought by him. Hence, the present writ petition.

3. Heard Mr.N. Manokaran, learned counsel for the petitioner and Mr.S.K. Raameshuwar, learned Standing Counsel for the respondents.

4. Counter affidavit has been filed by the 3rd respondent, on behalf of the 2nd respondent as well, wherein at paragraph Nos. 12 and 13, it is stated as follows:

"12. I respectfully submit as per Hon'ble Court order, the service connections (3 Nos.) were effected on 02.07.2016 to the petitioner the S.C. Nos. Bearing 055-002-1497, 1498 & 1499 Tariff IA.

13. I submit I have the highest respect and regard for the orders of this Hon'ble Court and passed the impugned order inadvertently under the mistaken belief that since the interim order of stay has not

been extended, the stay is not in operation."

5. Eventhough the counter affidavit states that the impugned order was passed under the mistaken belief that the interim stay was not in force, when the demand of penalty made by the respondent Board is the subject matter of W.P. No. 30358 of 2012 and when an interim order had also been granted by this Court, in the said writ petition, staying the payment of penalty imposed, even if the interim order had not been extended subsequently, unless the said order had been vacated, modified or varied, it is deemed to be in force. The respondent Board cannot take advantage of non-extension of the interim order to demand payment of penalty, as a pre-condition, for effecting domestic service connections sought by the petitioner.

6. However, considering the fact that the respondents have already given domestic service connections, as sought by the petitioner, and the impugned order has been passed, only under a mistaken notion, as stated in paragraph No.13 of the counter affidavit, the writ petition is closed. No costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

nv
To

1. The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai - 600 003.
2. The Executive Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Perundurai - 638 052, Erode District.
3. The Assistant Engineer/Rural,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Erode Electricity Distribution Circle,
Perundurai - 638 052, Erode District.

1 cc to Mr.N.Manokaran, Advocate, sr.38256

1 cc to Mr.S.K.Raameshwar, Advocate, sr.38406

W.P. No. 22464 of 2016

gj ii co, kra 03.08.2016