

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.2302 of 2016
& W.M.P.Nos.2003 & 2004 of 2016

M/s.Tirumalayan Enterprises,
rep. by its Proprietor S.Ramani ... Petitioner

Vs.

1. The Chief Engineer,
North Chennai Thermal Power Station,
Chennai 600 120.
2. The Chairman,
TANGEDCO, Anna Salai,
Chennai - 2. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus to call for the records relating to the impugned letter dated 13.1.2016 in Lr.No.CE/ NCTPS-I/ SE/ P & A/ St. Cont/CSO/SS/ Specn.No.144/15-16/ D.150/16 issued by the 1st respondent and quash the same and consequently direct the 1st respondent to extend the time for lifting the scarp materials from the respondents yard and to waive the ground rent.

For Petitioner : Mr.K.Rajasekaran

For Respondents : Mr.P.R.Dilipkumar

ORDER

Heard the learned counsel for the petitioner and Mr.P.R.Dilipkumar, learned counsel accepting notice on behalf of the respondents and with their consent, the writ petition is taken up for final disposal at the admission stage itself.

2.Petitioner challenges the order passed by the first respondent dated 13.01.2016. By the impugned order, the petitioner has been informed that since he has not fulfilled the terms and conditions of the order dated 07.11.2015, in and by which the petitioner was granted permission to lift certain scrap material from the North Chennai Thermal Power Station

within the time permitted and if not, the Earnest Money Deposit has been directed to be forfeited. In terms of the release order dated 07.11.2015, the petitioner ought to have removed the materials on or before 22.11.2015. However, the petitioner failed to do so and submitted a representation on 15.12.2015, for extension of time. The reason stated by the petitioner is that due to flood, they could not immediately move the materials.

3. Learned standing counsel appearing for the respondent Board would submit that during the relevant period i.e., from 07.11.2015 to 22.11.2015, State was not affected by flood and the petitioner was not diligent in fulfilling the terms of the contract. Therefore, the respondent is justifying in passing the impugned order. However, it is submitted that if the petitioner pays the ground rent as fixed by the first respondent, the materials will be given to him and the respondent will not sell the material to any third party.

4. Considering the facts and circumstances and the submissions made on either side, this Court is of the view that the matter could be resolved by the first respondent by working out a solution in the matter which would be mutually beneficial. From the photographs produced, it is seen that the scrap materials are shriveled in the yard of North Chennai Thermal Power Station and there may be certain practical difficulties in removing the materials. Instead of litigating the issue, the first respondent may impose certain reasonable conditions, so that the petitioner would be able to fulfill the terms and conditions of the release order dated 07.11.2015. Hence, while setting aside the impugned order liberty is granted to the petitioner to submit a fresh representation setting out the facts and the offer made by the petitioner, so that the first respondent can consider the same, on merits and in accordance with law and take a final decision in the same. The first respondent while taking a final decision shall also consider the equalities on both sides and then pass the final order. The above direction shall be complied with, within a period of two weeks, from the date of receipt of the petitioner submitting his representation.

5. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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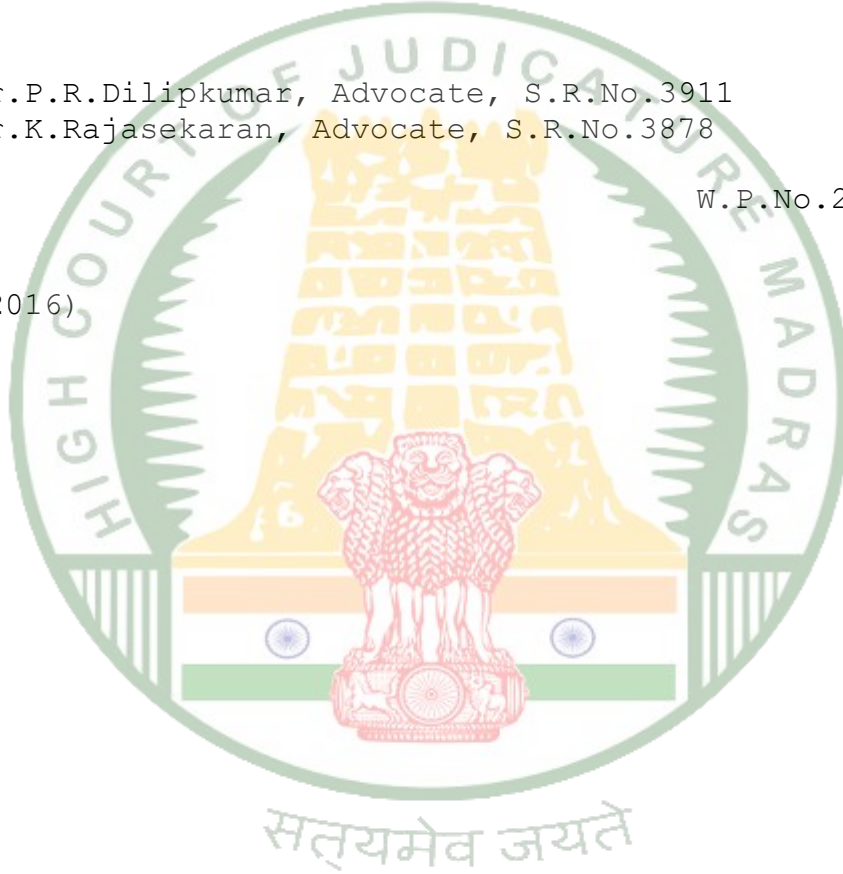
To

1. The Chief Engineer,
North Chennai Thermal Power Station,
Chennai 600 120.
2. The Chairman,
TANGEDCO, Anna Salai,
Chennai - 2.

+1cc to Mr.P.R.Dilipkumar, Advocate, S.R.No.3911
+1cc to Mr.K.Rajasekaran, Advocate, S.R.No.3878

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SKV(CO)
CA(02/02/2016)



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