IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2016

CORAM

The Hon'ble Mr.Justice N.Kirubakaran

Writ Petition No.28819 of 2016
and
W.M.P.Nos.24877 and 24878 of 2016

A.Sankaralingam ... Petitioner

Vs.

1. The Tamil Nadu Electricity Board,
rep. by its Chairman,
TANGEDCO,
Anna Salai, Chennai - 600 002.

2. The Executive Engineer,
TANGEDCO,
O & M, CEDC South,
K.K.Nagar, Chennai - 600 078. ... Respondents

Prayer:-

Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records of the second respondent, in impugned proceeding, bearing Lr.No.EE/O&M/KKN/AAO/AS5/A/c.No.285-014-228/D259/2016, dated 29.03.2016, and to quash the same.

For Petitioner : Mr.S.Udayakumar
For Respondents : Mr.S.K.Rameshuwar
Standing Counsel for TNEB

O R D E R

Heard Mr.S.Udayakumar, the learned counsel appearing for the petitioner, and Mr.S.K.Rameshuwar, learned Standing Counsel for TNEB, accepting notice on behalf of respondents, and with the consent on either side, the Writ Petition is taken up for final disposal.

2. The petitioner has filed this Writ Petition, challenging the demand notice, issued by the second respondent, dated 29.03.2016.

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3. The case of the petitioner, as given in the supporting affidavit of this Writ Petition, in gist, is as follows:-

i) The petitioner is the owner of two properties, i) one property, bearing Door No.2, is situate at Karumariamman Koil Street, and the other property, bearing Door No.96, is at Jawaharlal Nehru Road, and both the aforesaid two properties are at Vadapalani, Chennai. The petitioner is having 3 phase electricity service connection, bearing No.285 : 014: 228, and each floor is having separate 3 phase connection.

ii) According to the petitioner, the premises, which consists of ground + two floors are leased out to various tenants. That is to say, the ground floor is occupied by the State Bank of India, First Floor is occupied by Indian Institute of Finance and Banking, and the Oriental Insurance Company Limited is in occupation of the second floor. During January, 2008, the premises was in occupation of M/s.Global Systems Technologies India Private Ltd., and after the said Company vacated the premises on 15.08.2009, the premises was lying vacant from 16.08.2009 to 31.12.2010, (i.e., for a period of 16 months) Thereafter, on 18.10.2011, M/s. Wings Foundation India Private Ltd., occupied the entire premises, and they also vacated during March, 2014. Again, from April, 2014 to September 2014, the premises was lying vacant. Thereafter, from October, 2014 onwards the Oriental Insurance Company Limited is in occupation of the second floor.

iii) When things stood thus, by virtue of the impugned order, dated 29.03.2016, the second respondent demanded a sum of Rs.1,78,144/- towards arrears of current consumption charges and short assessment as detected by the Audit Department. On receipt of the said notice, the petitioner has given a reply, dated 23.04.2016, requesting to waive the demand, by furnishing the details of non occupation of the premises by the tenants. The petitioner's contention is that, since practically there was no consumption of electricity for the period from 01.01.2011 to 31.03.2011, the petitioner had paid minimum charges, as per the meter reading, however, the Audit Department doubted the usage of electricity, without applying mind and based on the report submitted by it, the impugned notice has been issued, raising a demand of Rs.1,78,144/-. Challenging the said notice, this Writ Petition has been filed.

4. It is seen that the petitioner was slapped with the impugned order/notice, dated 29.03.2016, demanding Rs.1,78,144/-, to which, a representation/reply has been given by the petitioner, on 23.04.2016, setting out details of the period, during which, the premises was lying vacant, for which, minimum charges was remitted, as per the meter reading.

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5. Thus, considering the fact that the petitioner had already given his representation/reply, on 23.04.2016, to the impugned notice, this Court is of the view that, it would be appropriate to direct the second respondent to consider the said representation and to pass orders.

6. Accordingly, this Writ Petition is disposed of, directing the second respondent/Executive Engineer to consider the representation made by the petitioner, dated 23.04.2016, and pass orders, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. Since it is submitted by the learned counsel appearing for the petitioner that the petitioner is in possession of supportive documents to substantiate his stand, it is open to him to produce all the documents to buttress his stand to the second respondent, who shall considering the same before passing orders in terms of direction issued hereinabove. Till orders are passed by the second respondent on the representation, no coercive action shall be taken, and the impugned proceedings shall be kept in abeyance.

7. In the result, the Writ Petition is disposed of, as stated above. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The Chairman,
   The Tamil Nadu Electricity Board,
   TANGEDCO,
   Anna Salai, Chennai - 600 002.

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2. The Executive Engineer,
TANGEDCO,
O & M, CEDC South,
K.K.Nagar, Chennai - 600 078.

+1cc to Mr.S.Udayakumar, Advocate Sr.47043
+1cc to Mr.S.K.Rameshkumar, Advocate Sr.47036

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srg 14/09/2016

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