

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

WRIT PETITION No.37767 of 2016

Govindasamy

... Petitioner

Vs.

1. The Chairman,
TANGEDCO, Chennai.
 2. Tamil Nadu Electricity Board,
rep. By its Superintending Engineer,
Tirupur.
 3. The Executive Engineer,
TANGEDCO/TEDC,
Avinashi, Tirupur District.
 4. The Assistant Executive Engineer,
TANGEDCO/TEDC,
Annuparpalayam,
Tirupur District.
- Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, to call upon and quash the entire records pertaining to the final assessment order made in Lr.No.AEE/D/ANP/CI/F.Theft No.18-2/2016, dated 30.09.2016 passed by the 4th respondent and consequently direct the respondents not to disconnect the Electricity connection in S.C.No.172-010-666.

For Petitioner : Mr.K.Vignesh Karthick

For Respondents : Mr.S.K.Raameshuwar
Standing Counsel for TNEB

O R D E R

The petitioner has come up with this Writ Petition challenging the assessment order dated 30.09.2016 vide Lr.No. AEE/D/ANP/CI/F.Theft No.18-2/2016, passed by the 4th respondent and for a consequential direction to the respondents not to disconnect the Electricity connection in S.C.No.172-010-666.

2. According to the petitioner, he was owning buildings in Door No.144, Konnan Thottam, Palanisamy Nagar, Tirupur and tenants were carrying out business in the said premises. He availed electricity connection vide S.C.No.172-010-666 for the said premises and was prompt in paying the electricity charges as stipulated under the periodical electricity bills. While so, on 23.07.2016, the 4th respondent inspected the said premises in the presence of the petitioner's son and in pursuance of the said inspection, the 4th respondent alleged that the electricity supply provided under SC No.172-010-666 was used unauthorizedly and further arrived at a conclusion that a sum of Rs.7,36,413/- has to be paid for the said unauthorized use of electricity and issued a provisional assessment order on 25.07.2016.

3. Aggrieved by the arbitrary assessment made in the said provisional assessment order, the petitioner filed his objections before the 3rd respondent on 25.07.2016. It is the case of the petitioner that without taking into account the said objections filed by him, the 4th respondent, mechanically and hurriedly passed the final assessment order dated 29.07.2016 directing him to pay a sum of Rs.7,36,413/- as compensation charges to the Electricity Board, within 30 days. Aggrieved by the said order, the petitioner filed a Writ Petition in W.P.No.25702 of 2016 and this Court, by an order dated 29.08.2016, quashed the final assessment order dated 29.07.2016 passed by the 4th respondent on the ground that Section 126(3) is not followed, and remanded the matter back to the 4th respondent.

4. Pursuant thereto, the 4th respondent issued a fresh provisional notice dated 16.09.2016 directing the petitioner to pay the assessed sum of Rs.7,36,413/- within a period of seven days. To the said notice, the petitioner made his objections on 22.09.2016, but no enquiry was conducted. The 4th respondent passed a final assessment order dated 30.09.2016 directing the petitioner to pay a sum of Rs.7,36,413/- to the Board within 30 days. Aggrieved by the said assessment order, the petitioner is now before this Court for the second time.

5. Learned counsel for the petitioner contended that though the petitioner filed his objections to the first assessment order on 25.07.2016 itself, he was not given an opportunity of hearing. It is his submission that the electricity connection was used only in the premises where the connection was given and that there is no theft of electricity in the service connection of the petitioner.

6. This Court had already given an opportunity of hearing to the petitioner by remanding the matter to the 4th respondent.

But, the petitioner, instead of appearing before the authority concerned, has chosen to give a detailed reply. Similar contention cannot be repeatedly raised to defeat the orders of the authority, more particularly on technical grounds. The petitioner is charged with unauthorized use of electricity connection and there is unauthorised consumption of electricity to the tune of Rs.7.4 lakhs.

7. Learned Standing Counsel appearing for the respondent/Electricity Board has brought to the attention of this Court that as against the impugned order dated 30.09.2016, the petitioner has got a right of appeal under the Electricity Act within 30 days from the date of passing of the impugned order and without availing the same, he has approached this Court. He further submitted that the petitioner will have to deposit atleast 50% of the amount demanded by the Electricity Board to avail electricity connection.

8. In view of the above, this Court is not inclined to accept the contention raised by the petitioner. However, it is open to the petitioner to prefer an appeal before the authority concerned within a period of one month from the date of depositing 50% of the amount specified in the impugned Demand Notice and on such deposit, it is open to the respondent Board to effect electricity connection to the premises of the petitioner.

9. It is also made clear that if the said amount is deposited and an appeal is filed within the time stipulated, the appellate authority need not insist on payment of remaining 50% of the amount specified in the Demand Notice. If an appeal is preferred by the petitioner, the appellate authority, without taking into account the period of limitation, shall dispose of the appeal within a period of two months thereafter.

This Writ Petition is disposed of with the above direction. No costs. Consequently, connected W.M.P.No.32368 of 2016 is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

aeb

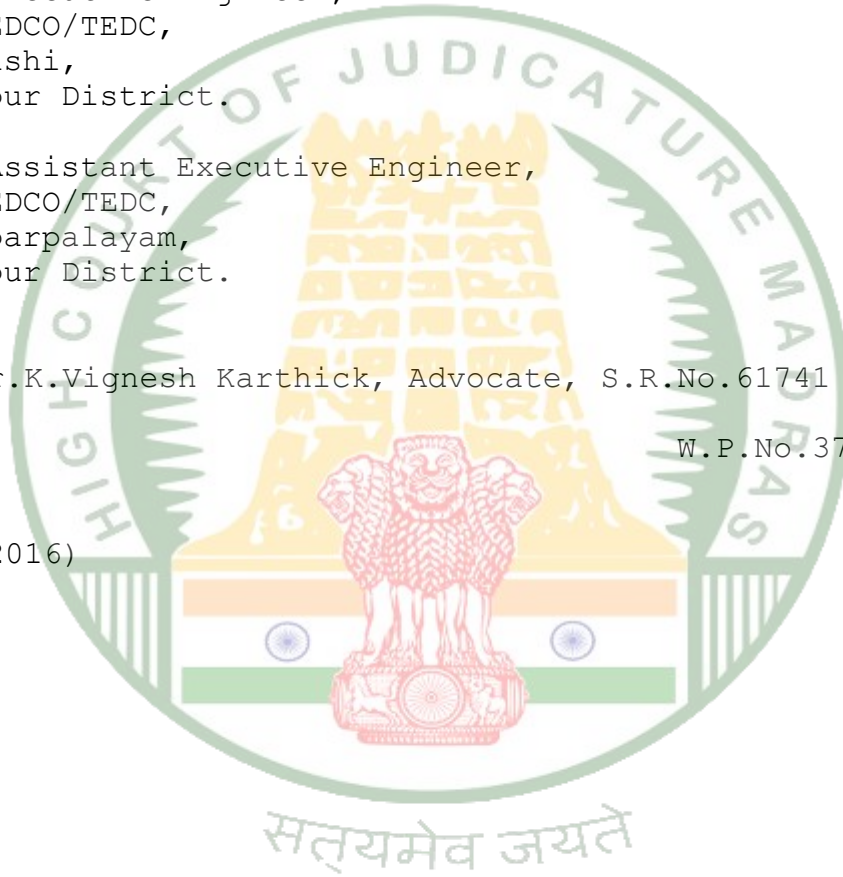
To:

1. The Chairman,
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2. The Superintending Engineer,
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Tirupur District.

+lcc to Mr.K.Vignesh Karthick, Advocate, S.R.No.61741

W.P.No.37767 of 2016

TRM(CO)
CA(14/11/2016)



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