

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 06.04.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.4395 of 2016 &
W.P.M.P.No.3743 of 2016

M/s.Newry Properties Private Ltd., [Petitioner]
Rep. by its Director Mr.Sridharan
Newry Grandeur B-19
2nd Avenue Anna Nagar East
Chennai-102.

Vs

- 1 Tamil Nadu Electricity Board
Rep. by its Superintendent Engineer
CEDC (West) Anna Nagar Chennai-40
 - 2 M/s.Americorp Business Service Pvt. Ltd
Rep. by its Director
Mr.C.S. Illangovan Alias Umesh
1201 12th Flr Tower 1
Elphinestone Mills Compound
Seanpati Bapat Marg Mumbai-13
- [Respondents]

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of mandamus directing the 1st respondent to accede to the request of the petitioner for surrender of HT Connection and to convert HT Connection to LT Connection or in the alternative for load shedding for the petitioner premises i.e. Survey Number 65/1 Padi Village together with the building thereon bearing No.2 Park Road Anna Nagar West Extension Chennai-600 101.

For Petitioner : Mr.Abdul Hameed for
M/s AAV Partners

For Respondents : Mr.P.R.Dhilip Kumar (R1)
Mr.S.Umapathy (R2)

O R D E R

Heard Mr.Abdul Hameed, learned counsel appearing for the petitioner, Mr.P.R.Dhilip Kumar, learned counsel appearing for the 1st respondent and Mr.S.Umapathy, learned counsel appearing for the 2nd respondent.

2.The petitioner has filed this Writ Petition praying for issuance of a writ of mandamus directing the 1st respondent to accede to the request of the petitioner for surrender of HT Connection and to convert HT Connection to LT Connection or in the alternative for load shedding for the petitioner's premises i.e. Survey Number 65/1 Padi Village together with the building thereon bearing No.2, Park Road, Anna Nagar West Extension, Chennai-600 101.

3.1 The petitioner said to have purchased the property from the 2nd respondent and applied to the 1st respondent Board for conversion of High Tension Service Connection into that of Low Tension Service Connection. This request made by the petitioner is not processed for the reason that the petitioner's Vendor is due and liable to pay a sum of Rs.2.09 crores to the 1st respondent Board, which is said to have been due and payable by his Vendor on account of interpretation with regard to tariff which is chargeable to the nature of Industry. The petitioner's Vendor, the 2nd respondent has challenged the proceedings before this Court by filing a writ petition in W.P.No.8424 of 2009, in which, an order of interim stay was granted and the said writ petition is pending and the interim order is in force. In fact, the sale in favour of the petitioner took place after the 2nd respondent had obtained a stay of the demand made by the Board. One other writ petition has been filed by the 2nd respondent viz., W.P.No.32611 of 2014 to quash the order dated 11.11.2014 insofar as it imposes the condition to pay Rs.2.09 crores as pending arrears for effecting low tension service connection to the premises. The said writ petition was disposed of by order dated 06.03.2015, directing the respondent Board to effect low tension service connection to the 2nd respondent's premises immediately on receipt of the initial payment of Rs.75,000/- to be made by them within a stipulated time, failing which, the Board was at liberty to disconnect the service connection. Subsequently, the 2nd respondent filed M.P.No.1 of 2015 to extend the time granted by this Court to comply with the condition and this Court by order dated 10.04.2015 had extended the time. With these facts, the petitioner would state that they are ready and willing to pay the amount whatever is due and payable by the 2nd respondent without prejudice to their rights and without affecting the rights and contentions of the 2nd respondent in the pending writ petition viz., W.P.No.8424 of 2009.

4. The only indulgence the petitioner seeks is that in the event of the 2nd respondent succeeding in W.P.No.8424 of 2009, then the amount remitted by the petitioner should be returned to the petitioner by the respondent Board.

5. The learned counsel for the 2nd respondent is also

agreeable to the above proposal and the Board also does not resist the same, but, would have certain reservations with regard to the refund in the event of success of the 2nd respondent in W.P.No.8424 of 2009. But, if the demand itself is set aside, then, obviously, the Board has to return the money probably not in one lumpsum, but, could be adjusted against the monthly CC bills.

6. In the light of the above, there will be a direction to the petitioner to pay a sum of Rs.2.09 crores, which was demanded from the 2nd respondent and on such amount being paid, the 1st respondent herein shall consider the petitioner's application for change of High Tension Service Connection to Low Tension Service Connection. It is made clear that this amount is paid without prejudice to the rights of the petitioner as well as without prejudice to the rights of the 2nd respondent in W.P.No.8424 of 2009. As and when the amount is paid, the 1st respondent shall commence processing the application of the petitioner. It is always open to the petitioner to seek for impleading in W.P.No.8424 of 2009.

The writ petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (AS)

//True Copy//

Sub Assistant Registrar

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To

1 The Superintendent Engineer
Tamil Nadu Electricity Board
CEDC (West) Anna Nagar Chennai-40

2 The Director
M/s.Americorp Business Service Pvt. Ltd
Mr.C.S. Illangovan Alias Umesh
1201 12th Flr Tower 1
Elphinestone Mills Compound
Seanpati Bapat Marg Mumbai-13

+1 cc to Mr.AAV Partners, Advocate, sr.22362

+1 cc to M/s.S.Umapathy, Advocate, sr.23037(29.04.2016)

W.P.No.4395 of 2016

ks co

kra 27.04.2016