



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2016

CORAM

THE HON'BLE Mr.JUSTICE R.SURESH KUMAR

W.P.(MD) No.16941 of 2013

and M.P.Nos.1 and 2 of 2013

Robin D. Joseph

...Petitioner

-vs-

1. The Assistant Accounts Officer,
Revenue Branch,
Thuckalay,
Kanyakumari District.

2 The Executive Engineer,
Tamil Nadu Electricity Board,
(Production and Distribution)
Thuckalay,
Kanniyakumari District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari calling for the records pertaining to the demand notice issued by the 1st respondent in Lr.No.AAO/RB/TKY/AS.V/A.D.14/2013, dated 08.05.2013 and quash the same.

For Petitioner: Mr.P.Saravana Bhuvan for
Ms.P.Kalaiyarasi Bharathi

For R1 and R2 : Mr.A.U. Ramanathan

O R D E R

The prayer in the writ petition is for a certiorari to call the records pertaining to the demand notice of the 1st respondent in Lr.No. AAO/RB/TKY/AS.V/A.D.14/2013, dated 08.05.2013 and to quash the same.

2.By the impugned order, the respondents have sought for demand from the petitioner for a sum of Rs.1,48,192/- as a due of electricity consumption charges to be paid to the respondents. The said claim was, in fact, disputed by the petitioner and therefore, challenging the same, he has filed the present writ petition.

3.Heard the learned counsel for the petitioner and the learned counsel for the respondents.

4.During the pendency of the writ petition, the respondent has passed a revised order on 08.10.2013, whereby, the original demand for a sum of Rs.1,48,192/- was revised and the revised amount of Rs.16,705/- alone was demanded.



5. The learned counsel for the petitioner would submit that now, as per the revised order, the actual demand, even according to the respondents, is only Rs.16,705/- and as the petitioner had already deposited a sum of Rs.35,000/-, which is lying with the respondent Department and the service connection has been disconnected, the same is no more required for the petitioner, the said amount can be deducted from the deposited amount, which is lying with the respondent and the remaining amount can be paid back to the petitioner.

6. The learned Standing counsel for the respondents relied upon the averments made in Paragraph No.11 of the counter affidavit, which reads as follows:

"11. I respectfully submit that the averments in para 8 of the affidavit are denied. It is further submitted that the petitioner has remitted the amount of Rs.32,331/- being the current consumption arrears for May 2013, RC fees, BPSC, etc. on 7.11.2013 and the service connection No.161-002-183 was reconnected on that day itself. However, the revised assessment amount of Rs.16,705/- instead of originally assessed amount of Rs.1,48,192/- revised on considering the contentions of the petitioner is yet to be paid by the petitioner."

7. By relying on the same, he would submit that the revised amount of Rs.16,705/- is yet to be paid by the petitioner and therefore, the same can be recovered from the petitioner.

8. Considering the said submissions made by the learned counsel for the parties, as the issue, since has been narrowed down with only Rs.16,705/- as due admittedly and also a deposit for a sum of Rs.35,000/- or more is lying with the respondent Department, there can be no impediment for the respondent Department to take the sum of Rs.16,705/- and the remaining amount can be returned back to the petitioner, as the petitioner is not requiring the service connection any more.

9. In view of the said factors, the writ petition is disposed of with the following directions:

1. In view of the revised order passed by the respondent, dated 08.10.2013, the impugned order cannot be sustained and therefore, the same shall not be given effect to ;

2. As per the revised order, dated 08.10.2013, the respondents shall take Rs.16,705/- from the deposit amount of the petitioner, lying with the respondent Department and after deducting the same, the remaining amount shall be returned to the petitioner in a period of two weeks from the date of receipt of a copy of this order.



No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar(CS)

To

1. The Assistant Accounts Officer,
Revenue Branch, Thuckalay,
Kanyakumari District.

2 The Executive Engineer,
Tamil Nadu Electricity Board,
(Production and Distribution)
Thuckalay,
Kanniyakumari District.

+1cc to M/s.P.Kalaiyarasi Bharathi, Advocate in SR.81072

W.P.(MD) No.16941 of 2013 and
MP(MD) Nos.1 & 2 of 2013
15.12.2016

rr.

PBK 10/01/2017 ::3P-3C: