

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.06.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

W.A.Nos.2113 and 2114 of 2011 and
M.P.Nos.1 and 1 of 2011

1. Tamilnadu Electricity Board,
Represented by its Chairman,
800 Anna Salai, Chennai.
2. The Additional Chief Engineer,
T.N.E.B Distribution Circle North,
Trichy - 20.
3. The Executive Engineer (O & M)
Ariyalur, Trichy Electricity Distribution Circle,
North, Ariyalur Division. ... Appellants in both Appeals

vs.

A.Sundaram ...Respondent in WA.No.2113/2011

R.Pachamuthu ...Respondent in WA.No.2114/2011

Prayer: Writ Appeals filed Under Clause 15 of the Letters
Patents Act against the order dated 16.08.2011 made in
W.P.Nos.36787 and 37950 of 2002 respectively.

Common Prayer in WP.37950 & 36787 of 2002

Writ petition filed under Article 226 of the Constitution of
India praying to issue Writ of Certiorarified Mandamus to call
for the records of the second respondent in his proceedings
No.Ka.Na.Ka.THA/THI M Ova Va/MO/THO.Aa/KO7/No.369/2001 and
proceedings No.K.No.Ktp/TMPV/N/M.T.A/F.7/368/2001 dated
03.10.2001 respectively and to quash the same as illegal and to
direct the respondents to refund the amounts collected from the
petitioners under self financing scheme and grant him free
electricity supply on par with other farmers

For Appellants : Mr.P.Gunaraj
(Both WAs)

For Respondents : Ms.S.Kanimozhi
for Ms.A.Arulmozhi
(Both Was)

C O M M O N J U D G M E N T

K.K. SASIDHARAN, J.

This intra court appeals are directed against the order dated 16 August, 2011 in W.P.Nos.36787 and 37950 of 2002, directing the appellants to refund a sum of Rs.10,000/- to the respondent in the respective writ appeals, within a period of three weeks.

2. We have heard the learned counsel for the appellants.

3. The respondent in the respective writ appeals (hereinafter referred to as "respondents") submitted application for availing free service connection. The application was pending for 13 years. The third appellant issued a communication to the respondents on 21 June, 1999 that they would be losing the seniority, in case a sum of Rs.10,000/- is not paid as one time payment. The respondents, immediately paid a sum of Rs.10,000/-. The appellants on receipt of the said amount provided electricity connection to the respondents. The respondents, thereafter, submitted representation to the appellants requesting refund of the amount on the ground that under similar circumstances free connection was given to their neighbour. The request was negatived by the second appellant. The respondents, therefore, filed writ petitions in W.P.Nos.36787 and 37950 of 2002 respectively. The learned single Judge allowed the writ petitions primarily on the ground that even without payment, the application of the respondents was ripe for giving connection. The orders are under challenge at the instance of the Tamil Nadu Electricity Board.

4. The factual matrix indicates that the respondents submitted application for electricity connection in the year 1986. The application was registered on 23 May, 1986 and 18 December, 1986 respectively. When it was found that in the normal course, connection could not be given to respondents on the basis of seniority, the appellants informed that in case a one time deposit of Rs.10,000/- is made, they would be given electricity connection forthwith. The respondents acted swiftly

by making the deposit. It is also a matter of record that appellants 2 and 3 provided service connection to the respondents immediately on making payment.

5. The immediate provocation for submitting a representation by the respondents was on account of the factum of giving connection to their neighbouring owner, who is also similarly situated. According to the respondents, their application was matured for giving connection and as such, there is no basis for demanding payment of Rs.10,000/-.

6. The application of the respondents was treated under priority Scheme on payment of Rs.10,000/-. The respondents availed the Scheme by paying Rs.10,000/-. It is the admitted case of the appellants that only on account of the said application accompanied by payment, the respondents were given connection. There is no question of refunding the amount already paid by the respondents after availing the connection. In case, the respondents were not in favour of depositing a sum of Rs.10,000/- for receiving connection on priority basis, they should not have deposited the amount. In any case, it cannot be said that the appellants were wrong in rejecting the request made by the respondents for refund of the amount. Since the amount was voluntarily paid by the respondents and thereafter, connection was given to them, there is no question of directing the appellants to refund the amount deposited to treat the application as one under priority scheme. We are therefore of the view that the learned single Judge was not justified in directing the appellants to refund the amount to the respondents.

7. In the result, the order dated 16 August, 2011 is set aside. The writ petitions in W.P.Nos.36787 and 37950 of 2002 are dismissed.

8. In the up shot, we allow the intra court appeals. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
Tamilnadu Electricity Board,
800 Anna Salai, Chennai.
2. The Additional Chief Engineer,
T.N.E.B Distribution Circle North,
Trichy - 20.
3. The Executive Engineer (O & M)
Ariyalur, Trichy Electricity Distribution Circle,
North, Ariyalur Division.

+lcc to Ms.A.Arulmozhi, Advocate, S.R.No.43526
+lcc to Mr.P.Gunaraj, Advocate, S.R.No.42878

W.A.Nos.2113 and 2114 of 2011

RK(CO)
CS/20/07/17



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