

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.21890 of 2017 &
W.M.P.Nos.22923 & 22924 of 2017

M/s.Kumaran Traders
Represented by its Partner
Mr.P.J.Ethiraj
No.61, Usman Road
T. Nagar, Chennai - 600 017

...Petitioner

v.

1.Assistant Executive Engineer
O & M, TANGEDCO/CHENNAI EDC/CENTRAL
No 57, Bazzulla Road, T. Nagar
Chennai - 600 017.

2.The Superintending Engineer
Chennai EDC/Central
Valluvarkottam
Nungambakkam, Chennai - 600 034

3.The Electrical Inspector
Chennai South Divisions
CEIG Office Complex
Thiru-vi-ka Industrial Estate
Guindy, Chennai - 600 032

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, calling for the records of the order of the first respondent passed in his proceeding vide letter No.AEE/O&M/T.Nagar/ South/F.Violation/145/2017, dated 04.07.2017 (Assessment Order) and quash the same.

For Petitioner : Mr.A.Saravanan
For Respondents : Mr.P.R.Dilip Kumar
Standing Counsel

O R D E R

Heard Mr.A.Saravanan, learned counsel appearing for the petitioner and Mr.P.R.Dilip Kumar, learned Standing Counsel, who takes notice for the respondents. By consent, the main writ petition itself is taken up for disposal at the admission stage itself.

2. The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus, to call for the records of the order of the first respondent dated 04.07.2017 and to quash the same.

3. It is the case of the petitioner that the 1st respondent had passed the impugned order dated 04.07.2017 without giving an opportunity to the petitioner.

4. By the impugned order dated 04.07.2017, the 1st respondent worked out the compensation charges payable by the petitioner under sub-section (5), (6) of the section 126 of the Electricity Act, 2003 to Rs.39,32,671/- (Rupees thirty nine lakhs thirty two thousand six hundred and seventy one only).

5. It is not in dispute that the petitioner has got a remedy by way of an appeal before the appellate authority, viz., The Superintending Engineer/Operation/Korattur, under section 127 of the Electricity Act.

6. Since the petitioner has contended that no opportunity was given to the petitioner before passing the impugned order, which is violative of principles of natural justice, I am of the view that the petitioner should be given an opportunity of personal hearing. However, the petitioner can be given an opportunity of personal hearing provided they make the payment of 50% of the demand, i.e. 50% of Rs.39,32,671/-.

7. Accordingly, the impugned order dated 04.07.2017 is set aside and remanded back to the first respondent for fresh consideration on condition that the petitioner making payment of 50% of the demand as stated above on or before 21.08.2017. The petitioner is also directed to appear before the 1st respondent on 22.08.2017 and the 1st respondent is directed to decide the matter afresh after hearing the submissions of the petitioner, within a period of two weeks from 22.08.2017. It is made clear that in the event of failure, to make payment on or before 21.08.2017, it is open to the respondents to proceed further and disconnect the service connection.

With these observations, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

To

1. Assistant Executive Engineer
O & M, TANGEDCO/CHENNAI EDC/CENTRAL
No 57, Bazzulla Road, T. Nagar
Chennai - 600 017.

2. The Superintending Engineer
Chennai EDC/Central
Valluvarkottam
Nungambakkam, Chennai - 600 034

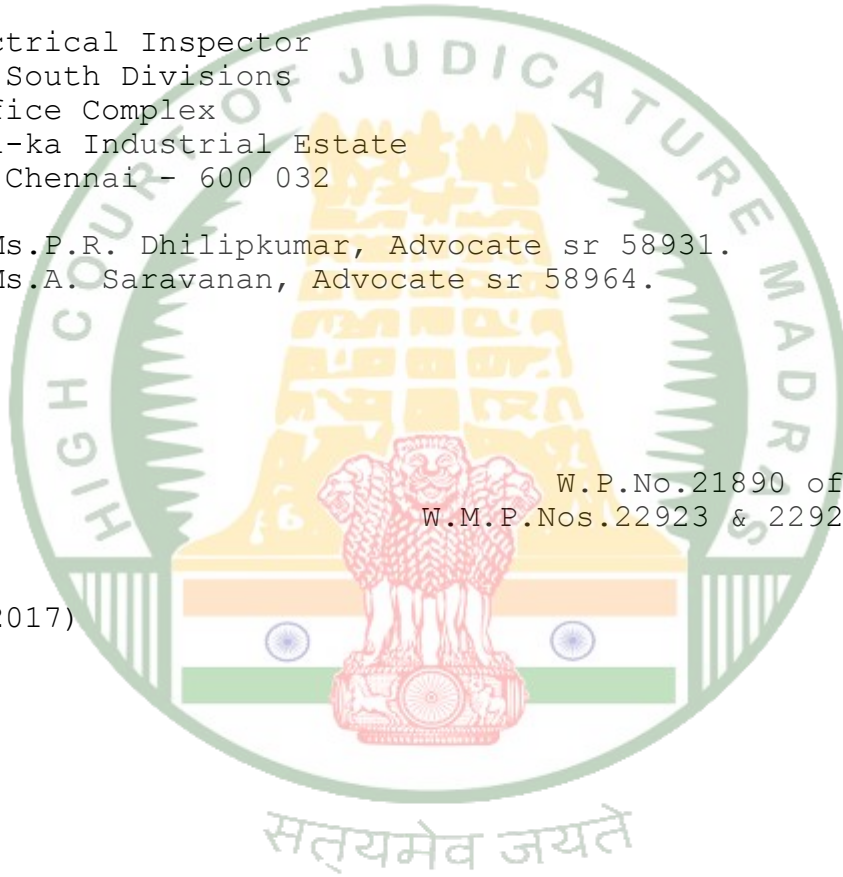
3. The Electrical Inspector
Chennai South Divisions
CEIG Office Complex
Thiru-vi-ka Industrial Estate
Guindy, Chennai - 600 032

+1 CC to Ms.P.R. Dhilipkumar, Advocate sr 58931.

+1 CC to Ms.A. Saravanan, Advocate sr 58964.

NRI (CO)
sp(17/08/2017)

W.P.No.21890 of 2017 &
W.M.P.Nos.22923 & 22924 of 2017



WEB COPY