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.No.2243 of 2010 and
M.P.No.1 of 2010

1.The Additional Chief Engineer
Tamil Nadu Electricity Board
Cuddalore Electricity Distribution Circle
Cuddalore.

2.The Executive Engineer
Cuddalore Electricity Distribution Circle
Panruti, Cuddalore District.

3.The Junior Engineer
Tamil Nadu Electricity Board
Pudupettai, Panruti Taluk
Cuddalore District. ...Appellants

vs.

Anuradha ...Respondent

Prayer: Writ Appeal filed Under Clause 15 of the Letters Patents Act, against the order dated 27.11.2009 in W.P.No.6944 of 2005.

For Petitioner : No appearance

For Respondent : Ms.L.Karthiga for Mr.C.Praksam

<u>J U D G M E N T</u>

<u>K.K. SASIDHARAN,J.</u>

This intra court appeal is directed against the order dated 27 November, 2009, in W.P.No.6944 of 2015, quashing the order dated 21 June 2003 on the file of the Additional Chief Engineer, Tamil Nadu Electricity Board, Cuddalore, directing the respondent to pay a sum of Rs.4,28,681/- (Rupees Four lakhs twenty eight thousand six hundred eighty one only), being the demand for payment of the electricity charges.

2. The respondent was running an Oil Mill at Bandarakottai in the District of Cuddalore for crushing ground nuts, copra and gingelly. The Tamil Nadu Electricity Board has granted electricity connection to the respondent bearing Policy No.406.

3. The Electricity Board issued notice to the respondent informing her that the metre was faulty and as such, correct electricity charges were not shown in the metre and resultantly actual amount was not paid by the respondent. There were series of proceedings between the appellants and the respondent. This court on an earlier occasion quashed the demand and directed the appellants to consider the matter afresh.

4.The appellants were directed to consider the matter after hearing the respondent. Subsequent to the remand, the appellants wanted the respondent to produce records for the period between 1988 and 1994, besides the stock details. The respondent pleaded her inability to produce the back records. The first appellant, therefore, calculated the amount by taking certain figures from the Commercial Tax records for three years to confirm the demand, which was contrary to the earlier demand. The first appellant assessed the electricity charges at Rs.4,28,681/-. There was no reason given in the demand as to how the amount was actually assessed.

5. When a challenge was made to the demand, the learned Judge found that the demand in question was contrary to the earlier stand taken by the appellants. The appellants have earlier taken up a contention that it was a wrong calculation and as such, the respondent was bound to pay the differential amount. However, in the order challenged in WP.No.6944 of 2005, the first appellant has taken up a contrary stand and made a demand for a sum of Rs.4,28,681/-. The learned Judge scanned the earlier proceedings and correctly arrived at a conclusion that there was no basis for the demand made by the first appellant.

6. The learned Judge imposed cost of Rs.10,000/- on account of the unreasonable stand taken by the appellants. We do not find any error or illegality in the order passed by the learned single Judge allowing the writ petition by quashing the demand. However, we are of the view that there was no valid reason to impose cost on the appellants.

7. While confirming the order passed by the learned single Judge, we quash the direction to pay the cost by the appellants.

8. The writ appeal is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

(K.K.SASIDHARAN.,J.) (M.V.MURALIDARAN.,J.)
16 June 2017

dna/svki

K.K.SASIDHARAN,J.
and
M.V.MURALIDARAN,J.

(dna)

W.A.No.2243 of 2010

16.06.2017