

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18/1/2017

C O R A M

The Honourable Mr.Justice S.Manikumar
and
The Honourable Mr.Justice M.Govindaraj

Writ Appeal No.2592 of 2010

Abdul Rahman ... Appellant
Vs

1. The Superintending Engineer
(Appellate Authority)
Coimbatore Electricity Distribution
Circle/Distribution South
Tamil Nadu Electricity Board
Tatabad
Coimbatore 12.
2. The Executive Engineer
O & M/CEDC/South
Kuniamuthur
Coimbatore 641 008.
3. The Assistant Executive Engineer
Distribution Kuniamuthur
Coimbatore 641 008. Respondents

Appeal filed under Clause 15 of the Letters Patent, against the order dated 24/6/2010, passed in W.P.No.3970 of 2003.

Prayer in Writ Petition No.3970 of 2003:Petition filed Under Article 226 of Constitution of India to issue a Writ of Certiorari of quash the order of the 1st Respondent bearing Proc.No.SE/CEDC/South/AEE/G1/TA1/F.SC 678/A 582/2002 dated 20.09.2002 confirming the order of 2nd Respondent dated 16/2/2002 bearing LR No.EE/0 &M/KMR/AE IER/F.SKT/25/03 715/01-02.

For appellant ... Mr.P.Haribabu

For respondents ... Mr.R.Ramachandran
for Mr.S.K.Rameshwar

J U D G M E N T

(Judgment of the Court was made by M.Govindaraj,J)

The appellant/writ petitioner was the consumer under the first respondent. He was running a plastic industry in the name and style of M/s.MAR Plastics, Kuniamuthur, Coimbatore. On a surprise inspection by the third respondent, on 21/12/2001, it was found that the electricity meter was tampered and the energy was tapped illegally. The first respondent, issued a show cause notice, on 21/12/2001 and thereafter, on conducting an enquiry, on 25/1/2002, passed an order, on 16/2/2002, assessing the loss at Rs.13,34,721/- and directed the writ petitioner, to pay the said amount, in fifteen equal instalments.

2. The abovesaid order was taken up on appeal before the first respondent and the same was dismissed, on 20/9/2002. Challenging the order, the writ petitioner had filed W.P.No.3970 of 2003. This Court, by its order, dated 24/6/2000, dismissed the writ petition and directed the payment of money due to the Electricity Board. Aggrieved by the order of the learned Single Judge, the writ petitioner had preferred the instant writ appeal.

3. When the matter is taken up for hearing, on 5/1/2017, Mr.P.Hari Babu, learned counsel for the appellant, submitted that after filing of the Writ Appeal, the appellant viz. Abdul Rahman passed away. This Court has granted time, to implead the legal representatives and thus, it is listed today.

4. When the matter is taken up for hearing today, Mr.R.Ramachandran for Mr.SK.Rameshwar, learned counsel for the Tamil Nadu Electricity Board, has produced the typed set of papers, containing the later developments in the above matter and it was informed that the deceased/appellant has already sold the property and the subsequent purchaser had cleared the dues. Therefore, we proceeded with the matter as it is.

5. From the typed set of papers submitted today, it is found that the Assistant Engineer (Distribution) Electricity Board has issued a show cause notice, in A.No.135/2010, dated 26/8/2010, demanding a sum of Rs.35,19,757/-, from the subsequent purchasers, viz., Mr.P.M.Nazeer and two others. The subsequent purchasers had challenged the above said show cause notice, dated 26/8/2010, by way of a writ petition in W.P.No.27770 of 2010. When the matter came up for admission, this Court, by its order, dated 11/2/2011, made in M.P.No.1 of 2011 had granted interim order, on condition to deposit a sum of

Rs.5,00,000/- (Rupees Five lakhs only) and in the event of payment made, the respondent Electricity Board, shall restore the electricity service connection No.266-007-678 - III B.

6. In the meanwhile, one Mr.Ummar and Mrs.Shaharbanu had also filed a suit against the demand made by the electricity Board in O.S.No.2523 of 2007, on the file of the Principal District Munsif, Coimbatore. Thereafter, the plaintiffs had offered to pay a sum of Rs.5 lakhs towards dues payable to the respondents and also has issued a consent letter, to pay the balance dues. On 4/12/2014, the Tamil Nadu Generation and Distribution Corporation Limited had issued an order, directing the subsequent purchasers, to pay a sum of Rs.6,87,488/-, by waiving the BPSC, at the rate of 1.5%, upto 6/12/2014, to the tune of Rs.28,34,225/-. Thereafter, the said Ummar had agreed to settle the balance amount, at the time of Mega Lok Adalat, to be conducted, on 6/12/2014.

7. Accordingly, on 6/12/2014, before the Lok Adalat, held at Coimbatore, the parties had arrived at the terms of settlement. As per the settlement arrived at Lok Adalat, the plaintiffs, viz., E.Ummar and Shaharbanu, in O.S.No.2523 of 2007, on the file of the Principal District Munsif, Coimbatore, have paid a sum of Rs.6,87,488/- by way of Demand Draft.

8. From the perusal of the records, we could see that the Demand Draft, dated 6/12/2011, had been received by the respondents and vide letter, dated 13/7/2016, the first respondent had mentioned that Thiru P.M.Nazeer, petitioner of W.P.No.27770 of 2010, had expressed his willingness, to withdraw the above said writ petition before National Lok Adalat, to be held, on 16/7/2016. Since amount to be realised in the above case is Nil, on 16/7/2016, as agreed, writ petition in W.P.No.27770 of 2010 was withdrawn before the Lok Adalat.

9. The learned counsel for the appellant submitted that since the entire matter has been settled and dues have been paid, nothing survives in this writ appeal, for further adjudication.

10. In view of the payment made to the demand made by the electricity Board, in the impugned proceedings No.SE/CEDC/South/AEE/G1/TA1/F.SC 678/A 582/2002, dated 20/9/2002 and the same having been recorded before the Lok Adalat, it is submitted by the respondents that nothing survives in this writ appeal for further adjudication.

11. Recording the same, this writ appeal is closed. No costs. Consequently, the connected Miscellaneous Petition No.1 of 2010 is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Superintending Engineer (Appellate Authority)
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Circle/Distribution South
Tamil Nadu Electricity Board
Tatabad
Coimbatore 12.
2. The Executive Engineer
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+1cc to M/S.P.Hari Babu, Advocate sr.4167

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