



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2017

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.16461 of 2017

and

WMP(MD)No.13119 of 2017

V.Geetha

... Petitioner

Vs.

1. The Superintendent Engineer,
Thanjavur Sub-Division Office,
Thanjavur Electricity Board,
Thanjavur District.

2. The Junior Assistant Engineer,
Direction & Maintenance,
Town/East Part,
Kumbakonam.

3. Sudharshana

4. A.Vashika

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the second respondent in Ka. No. Me. Po / Tha. mi. pa. va / Thaj /U. Se Po / Valarchi / Ko. Valakku / A.No.144 dated 18.08.2017, and quash the same and consequently direct the respondents to restore the electricity connection to E.B.No.064210010437 for the Padmavathy Bahvan situated at no.7, ESS-VEE towers ground floor Nageswaran 7th street Kumbakonam, Thanjavur District.

For Petitioner : Mr.S.Chellapandian

For Respondents 1 & 2 : Mr.S.Srimathy

For Respondents 3 & 4 : Mr.N.Dilipkumar

**ORDER**

This writ petition has been filed, seeking to call for the records relating to the impugned order of the second respondent in Ka. No. Me. Po / Tha. mi. pa. va / Thaj /U. Se Po / Valarchi / Ko. Valakku / A.No.144 dated 18.08.2017, and quash the same and consequently direct the respondents to restore the electricity connection to E.B.No.064210010437 for the Padmavathy Bahvan situated at no.7, ESS-VEE towers ground floor Nageswaran 7th street Kumbakonam, Thanjavur District.

2.Heard both sides.

3.By consent, the writ petition is taken up for final disposal at the stage of admission itself.

4.The learned counsel for the petitioner would submit that the petitioner owns the subject mentioned restaurant from May 2016. The second respondent on 23.08.2016 disconnected the electricity connection of the said premises on the ground of non payment of electricity bill. Despite the petitioner paid the entire due, the electricity connection was not restored. Since, the petitioner's representation to the second respondent dated 09.06.2017 was rejected on 20.06.2017, WP(MD)No.12299 of 2017 was filed and by order dated 03.07.2017, this Court directed to restore the electricity connection. Against which WA(MD)No.975 of 2017 was filed. Though, the Division Bench, by order dated 18.07.2017 remitted the matter to the first respondent for fresh consideration, no order was passed. Hence, the petitioner submitted representations on 26.07.2017 and 07.08.2017, to the first respondent and the same were rejected on 18.08.2017. Challenging the same, the petitioner is before this Court.

5.The writ petition has been filed questioning the impugned order passed by the authority on 18.08.2017, which is a result of

the compliance of the order dated 18.07.2017 passed in WA(MD)No.975 of 2017.

6. In the earlier round of litigation before the learned single Judge, the petitioner sought for re-connection and after elaborate arguments and considering all the aspects, the learned single Judge ordered for re-connection. Not satisfied with the order, the landlord after obtaining leave filed writ appeal, wherein the Division Bench of this Court, passed the following order.

"The Writ Appeal is allowed. The order passed by the learned single Judge is set aside. We remit the matter to the second respondent for fresh consideration. The Second respondent is directed to decide the question of re-connection taking into account the objection made by the appellants. The order passed by the third respondent is also quashed. We direct the second respondent is directed to consider the objections raised by the appellants and pass a speaking order on merits within a period of four weeks from the date of receipt of a copy of this Judgment. In case, the second respondent takes a decision that re-connection is not possible, at the instance of the first respondent, necessarily, re-connection charges shall be refunded. Similarly, in the event of taking a decision that re-connection should be made, the amount paid by the first respondent need not be refunded. No costs. Consequently, CMP (MD)No.6615 of 2017 is closed."

7. In the Counter filed, by the third and fourth respondents, in paragraph No.16, it is, inter alia, averred as follows:

" The petitioner had not spelt out the mischief committed by her before this Court in the earlier writ petition. The statement of the petitioner in paragraph 8 that the matter was remanded to the first respondent herein for fresh



consideration and that the Division Bench had ordered for granting due opportunity to both the parties is also false. Reference may kindly be made to the said order of the Division Bench reproduced above. The Honb'le Division Bench had consciously stated that the second respondent therein / first respondent herein shall consider the objections raised by the appellants (ourselves) and the order does not indicate providing any opportunity to the writ petitioner. Upon considering the subject on its merits, the order impugned had been passed and in fact on the very same date the first respondent herein had passed an order in proceedings number 145/17-18, directing us to pay the sum of Rs.41,146 and accordingly we had paid the same on 21.08.2017."

In the considered opinion of this Court, it is nothing but consideration of the objections of the landlord, and thereby, insisting the petitioner to produce No Objection Certificate from the landlord.

8.As directed by the Division Bench of this Court, in consideration of all these aspects, the respondent was inclined to refund the caution deposit of Rs.41,146/-. Such an order cannot be questioned by arguing the merits of the claim of the petitioner once again. Hence, this Court finds that there is no illegality committed in the impugned order, dated 18.08.2017.

9.Accordingly, the writ petition is dismissed. However, the respondents are directed to refund the electricity consumption charges paid by the petitioner within a period of four weeks from today. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-I)



To

1. The Superintendent Engineer,
Thanjavur Sub-Division Office,
Thanjavur Electricity Board,
Thanjavur District.

2. The Junior Assistant Engineer,
Direction & Maintenance,
Town/East Part,
Kumbakonam.

+1cc to M/S.S.CHELLAPANDIAN, Advocate SR.No.87083.

+1cc to M/S.N.DILIP KUMAR, Advocate SR.No.87407.

ORDER MADE IN
W.P (MD) No.16461 of 2017
14.11.2017

dsk

SDS/SKN:RSK/SAR 2/22.11.2017/5P/5C