

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.16708 OF 2009

ORDER:

Heard Ms. S. Pranathi, Learned Counsel for the petitioner and Sri M. Ravindra, Learned Standing Counsel for the respondent. The order under challenge in this Writ Petition is the letter dated 27.11.2008, issued by the second respondent, as being illegal and arbitrary.

By the said proceedings dated 27.11.2008, the Assistant Accounts Officer called upon the petitioner to arrange payment of Rs.90,988/- on the ground that the suit filed by them against APEPDCL, in O.S. No.122 of 2004 before the Principal Senior Civil Judge, Kakinada, was dismissed with costs on 26.08.2008. While dismissing the suit, the Learned Principal Senior Civil Judge, Kakinada had observed that the plaintiff ought to have valued the suit for declaration of title, and ought to have sought for the consequential relief of discharge of claims by respondents 1 to 10; they could not have sought injunction against the lawful claim of any statutory body, by instituting a suit against them; they had cleverly shown the plaint schedule property as their property on the one hand, and the amount of Rs.3,70,000/- set apart by them as property on the other; in an interpleader suit, there could not be two separate properties; the plaintiff shall not lay any claim on the single property except for charges and expenses; and the plaintiff had failed to show that the suit, as framed, fell within the four corners of Section 88 and Order XXXV CPC.

While it is no doubt true that the Suit, filed by the plaintiff seeking injunction, was dismissed, it is their case that the electricity dues represents the dues from the previous owner who had an LT

connection; they had not put the said electricity connection to use at any point of time; and they had obtained a HT connection later, and had paid all the electricity dues for the electricity consumed by them under the said connection.

On a perusal of the order, it does not appear that the Assistant. Accounts Officer has put the petitioner on notice before such a demand was raised. The entire basis of the demand is only the dismissal of the suit. The mere fact that the petitioner has not been granted an order of injunction does not justify the respondents demanding payment of the dues of the previous owner without putting the petitioner on notice and without giving them an opportunity of being heard. The impugned order is set aside. Suffice it to make it clear that this order shall not preclude the respondents from issuing a notice to the petitioner, giving them an opportunity of being heard, and thereafter pass an order in accordance with law.

The Writ Petition stands disposed of accordingly. The miscellaneous petitions pending, if any, shall stand closed. No costs.

RAMESH RANGANATHAN, ACJ

Date: 24.08.2017.
MRKR