

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.11550 of 2006

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking verbatim the following relief:

...to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the Final Assessment order passed by the 2nd respondent in his order No.375, dt.18-01-2006, as confirmed by the 1st respondent in his proceedings No.SE/ A/ TPT/ FAO/ D 4(A) 4-6/ GNT/ D.No.3/ 06, dt.21-04-2006 is illegal, arbitrary and contrary to the provisions of Electricity Act as the said final assessment order passed by the respondents without examining the material facts and evidence and consequently set aside the final assessment order passed by the 2nd respondent in his order No.375, dt.18-01-2006 as confirmed by the 1st respondent in his proceedings No.SE/ A/ TPT/ FAO/ D 4(A) 4-6/ GNT/ D.No.3/ 06 dt.21-04-2006 and pass such other order or orders..."

2. I have heard the submissions of Sri K.Suresh Reddy, learned counsel for the petitioner, and of Smt. Jagarlamudi Koteswari Devi, learned Standing Counsel for APSPDCL, representing the respondents. I have perused the material record.

3. The subject matter of the writ petition is related to alleged theft of electrical energy.

4. Learned counsel for both the sides would submit as follows: 'The Indian Electricity Act, 2003 (Act 36 of 2003) came into force with effect from 10.06.2003; Part XV of the said Act relates to Special Courts; Section 135 deals with theft of electricity; Section 153 there under relates to constitution of Special Courts; a Special Tribunal constituted under Section 49-C (1) of the Indian Electricity (Andhra Pradesh Amendment) Act, 2000, is the Court of District Judge; and, the very same Court is designated as Special Court under Section 153(1) of the 2003 Act;

Section 154 of the 2003 Act prescribes the procedure and the powers of the Special Court; Section 154(5) of the said Act requires the Special Court to determine civil liability against a consumer in terms of money for theft of energy; in that view of the matter, the issue involved in the writ petition has to be resolved by the Special Court.'

5. Recording the said submissions, the Writ Petition is disposed of reserving liberty to the respondents to approach the Special Court. If the petitioner had paid any amount prior to the filing of the writ petition or subsequent thereto, the said amount shall be given credit, in the eventuality of any amount being found due and payable after assessing the civil liability. The interim order, which was granted by this Court, on 13.06.2006, shall inure to the benefit of the writ petitioner till the Special Court disposes of the matter in strict accordance with the procedure established by law.

Miscellaneous petitions pending, if any, in this writ petition shall stand closed. There shall be no order as to costs.

16th March, 2017
Bvv

M. Seetharama Murti, J