

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.7481 OF 2017

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, for the following relief:

“to issue a writ or order or direction more particularly one in the nature of a writ of Mandamus declaring the action of the respondents in seeking to recover the arrears or consumption of electricity due in respect of service connection No. 1424563115000912 without passing final assessment order in pursuance of the provisional assessment notice vide Lr.No.ADE/O/PRPD/DSO/F.No.Doc/D.No.183/15, dt. 13-2-2015 and the consequential notice of demand issued by the 6th respondent dt. 17.2.2017 as wholly illegal, arbitrary and unjust and consequently set aside the demand notice dt. 17.2.2017 to recover the arrears of electricity due in respect of service connection No. 1424563115000912 in the interest of justice.”

2. Heard the learned counsel for the petitioner and Sri M.Ravindra, learned standing counsel for the respondents.

3. Admittedly, in the present case, the Assistant Divisional Engineer (Operation), APEPDCL, Prathipadu, vide Lr.No.ADE/O/PRPD/ASO/F.No.Doc/D.No.183/15, dated 13.02.2015, issued a provisional assessment notice, assessing liability as Rs.92,121/-, proposing to initiate the action under Section 135 of the Electricity Act, 2003.

4. According to the learned standing counsel for the respondents that, as per the procedure, since it is the case of theft under Section 135 of Electricity Act, it is obligatory on the part of the consumer to pay half of the assessed amount, in the case of consideration of the issue under Section 154 of the Electricity Act, 2003. The said legal position is not disputed.

5. In view of the above legal position, this writ petition is disposed of, keeping it open for the petitioner herein to deposit half of the provisionally assessed amount, within a period of six weeks from today, to avail the provisions of Section 154 of the Electricity Act, with a request to the said effect before the authorities. In the meanwhile, the consequential action pursuant to the notice in Form-4 issued under Section 25 of the A.P.Revenue Recovery Act, 1864, shall be deferred. It is also made clear that in the event of failure of the petitioner herein to pay the amount as indicated supra, it is for the respondents to proceed, in accordance with law.

6. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

03.03.2017
SS