

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.24944 of 2005

ORDER:

The petitioner filed the writ petition impugning the order No.DEA/ I/ HYD/ DAT.45387/ D.No.9568, dated 29-08-2005, issued by the 2nd respondent/the Divisional Engineer, Assessment-I, the Central Power Distribution Company of A.P., Limited (A.P.Transco).

At the hearing, learned counsel for petitioner and the learned Standing Counsel for respondents would submit as follows: 'By the time the order impugned in this writ petition came to be passed, the Indian Electricity (Andhra Pradesh Amendment) Act, 2000, which came into effect from 31-07-2000, was already in operation; therefore, the 2nd respondent ought not to have passed the order impugned; the 2nd respondent ought to have transferred the case pending before him to the Special Tribunal constituted under Section 49-C of the Indian Electricity (Andhra Pradesh Amendment) Act, 2000.'

It is also brought to the notice of this Court that subsequently 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 thereunder relates to constitution of Special Courts; a Special Tribunal constituted under Section 49-C(i)

of the Indian Electricity (Andhra Pradesh Amendment) Act, 2000, was the Court of Additional District Judge and the very same Court was designated as Special Court under Section 153(1) of the 2003 Act; Section 154 of the 2003 Act prescribes the procedure and 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.'

Whether it is Special Tribunal under the Indian Electricity (Andhra Pradesh Amendment) Act, 2000, or the Special Court constituted under the 2003 Act, the Court is one and the same because the Special Tribunal is itself been constituted as a Special Court in our States.

Learned Standing Counsel appearing for the official respondents would further submit that since the order impugned is liable to be set aside and as it is a final assessment order, the petitioner may be directed to deposit 50% of the amount demanded to meet the ends of justice. However, it is to be noted that the amount involved, which is the subject matter of the *lis*, is Rs.66,581/- and the petitioner had already deposited Rs.20,000/- pursuant to the interim order granted by this Court on 23.11.2005. Considering the said fact and the further fact that the amount involved is a small amount, this Court does not deem it necessary

in this particular case to give any direction to deposit any further amount.

Recording the afore-stated submissions, the order impugned in this writ petition is set aside; and, the respondent-officials are directed to forthwith transfer the case pending before the 2nd respondent to the Special Court constituted under Section 153(1) of 2003 Act for determination of the civil liability, if any, of the writ petitioner. The Writ Petition is disposed of accordingly.

Considering the fact that this matter is a sufficiently old matter, the Special Court shall endeavour to dispose of the matter as expeditiously as possible, preferably within four months from the date of receipt of case record from the 2nd respondent. No costs.

The miscellaneous petitions, if any, pending in this writ petition shall stand closed.

M. SEETHARAMA MURTI, J

Date: 17-01-2017
Prv