

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CONTEMPT CASE No.1033 OF 2017

ORDER:

This contempt case is filed alleging non-implementation of the order dated 01.10.2015 passed in W.P.M.P.No.40642 of 2015 in W.P.No.31437 of 2015.

A counter affidavit is filed stating as follows:

It is also a fact that this Hon'ble Court granted an interim order in W.P.M.P.No.40642 of 2015 on 01.10.2015. The said order reads as follows:

"It is submitted by the learned counsel for the petitioner that the transformer was erected exclusively for the benefit of the petitioner and the respondents are allowing third parties to use the said transformer.

In the circumstances, the respondents are restrained from allowing the third parties from using the transformer for drawing power if the transformer was erected exclusively for the benefit of the petitioner."

I submit that a reading of the above order of this Hon'ble Court makes it clear that the respondents are restrained from allowing third parties to use the transformer for drawing power, if the said transformer was erected exclusively for the benefit of the writ petitioner. In this connection, I submit that there is no truth in the averment of the petitioner that the said transformer was exclusively erected for the benefit of the writ petitioner and another by name Shaik Khaja Hussain. The petitioner has not filed even scrap of paper in support of his contention. In fact, under the provisions of the **"General Terms and Conditions of Supply of Distribution and Retail Supply Licensees"**, there cannot be any exclusive use of transformers by any single or double consumers. In this connection, I submit that Clause 5.3.2.2 of the said 'General Terms and Conditions' makes it clear that the said averment is incorrect. The said clause is extracted hereunder:

"Clause 5.3.2.2: Notwithstanding the fact that a portion or full cost of the service line has been paid for by the consumer, the service line shall be the property of the company, which shall maintain it at its own cost. The

Company shall also have the right to use the service line for supply of energy to any other person(s)."

A reading of the above mentioned provision falsifies the entire case of the writ petitioner. Moreover, the respondents never authorised the writ petitioner or anybody to use the transformer under which they are getting supply of power to his borewell. It is submitted that the order of this Hon'ble Court is not violated by these respondents. As per the order of this Hon'ble Court dated 01.10.2015, the respondents are restrained from allowing third parties to draw power from transformer, if it was erected for the exclusive benefit of the writ petitioner. Since, the transformer is not erected for the exclusive benefit of the writ petitioner and another consumer viz., Shaik Khaja Hussain, there is no violation of the orders of this Hon'ble Court.

In view of the same, it has to be decided whether the transformer already erected is for the exclusive benefit of the petitioner or not. Unless the same is decided, no proceedings can be continued in the present contempt case.

The contempt case is accordingly closed.

A.RAMALINGESWARA RAO, J

28.07.2017
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