

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-12-2018

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.17456 of 2004

S.Manjula

... Petitioner

Vs

The Superintending Engineer,
C.E.D.C/South,
No.110, K.V.S.S.Complex,
K.K.Nagar,
Chennai-600 078.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the letter of the respondent herein in No.SE/CEDC/ S/DFC/AAO/AS/A3/D 3457/2004 dated 8.6.2004 and quash the same.

For Petitioner : Mr.S.V.Jaya Raman,
Senior Counsel for Mr.T.Dhanasekaran.

For Respondent : Mr.S.K.Raameshuwar,
Standing Counsel for Electricity Board.

O R D E R

The order dated 8.6.2004, demanding the arrears of current consumption charges in LT 203-21-497, is under challenge in the present writ petition.

2. The impugned notice stipulates that the writ petitioner is liable to pay the arrears of current consumption charges of Rs.15,01,813/-.

3. The learned Senior Counsel, appearing on behalf of the writ petitioner, articulated the case of the writ petitioner by stating that the demand notice impugned in the present writ petition is absolutely untenable on the sole ground that the writ petitioner is neither a Director of the Company nor connected with the affairs of the Company.

4. The Electricity Service Connection was provided in

the name of M/s.Pondy Cements Private Limited, Chennai, Old No.105/New No.38, Lattice Bridge Road, Adyar, Chennai-20. The Service Connection was initially provided in the name of the abovesaid Company. Admittedly, the husband of the writ petitioner was a Director of the abovesaid Company. However, the writ petitioner, who is the wife of the Director of the Company, is absolutely unconnected with the affairs of the company nor at any point of time, she was holding the post of the Director or any other post as a matter of fact. This being the factum, issuing the demand notice to the writ petitioner in respect of the liability of the company is untenable. Thus, the writ petitioner was constrained to move the present writ petition.

5. The learned Standing Counsel for the respondent-Electricity Board, opposed the contentions of the learned counsel for the writ petitioner by stating that the writ petitioner is none other than the wife of the Director of the Company Mr.S.Siva.

6. In view of the fact that the company was wound up and the Director had not cleared the arrears of current consumption charges, the Electricity Board had sent the demand notice to the wife of the Director of the Company, which is permissible and there is no irregularity as such. Thus, the writ petition is liable to be rejected.

7. This Court is of an opinion that a Company registered under the Companies Act, 1956 or as a matter of fact any Association, Forum or a Commercial Institution registered under any other Statute is the legal entity by itself. The Company, more specifically, is the legal entity under the provisions of the Companies Act, 1956, is capable to sue and capable of being sued. Thus, the arrears of current consumption charges have to be recovered from the Company, which is the legal entity.

8. The Director may come and go and however, the Company remains as a separate legal entity. The electricity service connection was provided in the name of the Company. Thus, the respondent is bound to collect the arrears only from the Company and the persons who all are responsible or holding any post in the Company.

9. In the present case, the Director is certainly liable to pay the current consumption charges. If the Director has failed to pay the current consumption charges, the Electricity Board authorities are at liberty to recover by attaching the properties belong to the Company or the properties stands in the name of the Director of the Company.

10. However, the wife of the Director is an independent person against whom no such demand notice can be issued. Such a demand notice can be issued, if any undertaking or otherwise is available. In the absence of any such documents to show that the writ petitioner is connected with the affairs of the Company, the respondent is not empowered to issue any demand notice, demanding the arrears of current consumption charges due to be paid to the Electricity Board by the Company, namely, M/s.Pondy Cements Private Limited, Chennai.

11. This Court is of the opinion that on perusal of the order impugned, the respondent-Board itself admitted the fact that the electricity service connection was provided in the name of the Company, namely, M/s.Pondy Cements Private Limited, Chennai. The impugned order has been passed against the writ petitioner only in her capacity as the wife of the Director of the Company and therefore, such an action taken by the respondent-Board is not in accordance with law and is impermissible.

12. In this view of the matter, the present writ petition deserves to be considered. Accordingly, the impugned order passed by the respondent in proceedings Lr.No.SE/CEDC/S/DFC/ AAO/AS/A3/D 3457/2004 dated 8.6.2004 stands quashed and the writ petition stands allowed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Svn

To

The Superintending Engineer,
C.E.D.C/South,
No.110, K.V.S.S.Complex,
K.K.Nagar, Chennai-600 078.

+1 cc to Mr.T.Dhanasekaran, Advocate Sr.No.88855

WP No.17456 of 2004

KJI (CO)
CSL/10.01.2019