

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.01.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A Nos.1623, 1624 of 2014,
MP Nos.1 and 2 of 2014

- 1.The Assistant Executive Engineer,
(Operation and Maintenance)
Tamil Nadu Electricity Board,
Meyyanoor, Salem - 636 005.
 - 2.The Executive Engineer,
(Operation and Maintenance - West)
Tamil Nadu Electricity Board,
Meyyanoor, Salem - 636 005.
 - 3.The Superintending Engineer,
Salem Electricity Distribution Circle,
Kamaraja Nagar Colony (Post)
Salem - 636 014.
- ...Appellants in both Appeals/Respondents

Vs

- P.Alamelu (Deceased)
- 1.P.Vaiyapuri
 - 2.V.Sivanandam
 - 3.V.Srinivasan (Deceased)
 - 4.S.Bhuvaneswari
 - 5.S.Jothimani
 - 6.V.Gurumurthy
 - 7.V.S.Hanshika (Minor)
 - 8.S.Kala

...Respondents

(R7 and R8 substituted vide order of this Court dated 5.12.2017 made in CMP Nos.21109 and 21110 of 2017 in W.A.Nos.1623 and 1624 of 2014 by KKSJ & PVJ)

Prayer:- Writ Appeals filed under clause 15 of the Letter Patent to set aside the order dated 12.06.2014 in W.P.Nos.22997 and 22998 of 2002.

Prayer in WP.No.22997/02:- Writ petition filed under Article

226 of the Consitution of India pryaing to issue a writ of certiorarified mandamus calling for the records of the first respondent in his letter NO.A.E.E./O & M/M/K.SPL./NO.418/02 dated 26-02-2002 and quash the same and directing the respondents not to enforce the demand made under the impugned order as against the petitioner or her electricity service connection S.C.NO.5 III-B chinnerivayal distribution in the premises No.149 Duraisamy Nagar, Swaminathapuram, salem.

Prayer in WP.No.22998 of 2002: Writ petition filed under Article 226 of the Constitution of India praying to issue a a Writ of mandamus directing the respondents to restore the electricity service connection S.C.NO.5 III-B chinnerivayal Districtbution in door No.149 Duraisamy Nagar Swaminathapuram Salem-9 forthwith.

For Appellants : Ms.K.Kavitha
for S.K.Rameshwar

For Respondent : Mr.P.Jagadeesan
for R1,R2, R4 to R8

J U D G M E N T

(Judgment of the Court was made by K.K. SASIDHARAN,J.)

The order dated 26 February 2002 directing the deceased P.Alamelu, the original writ petitioner, to pay the demand on account of unauthorised extraction of energy was quashed by the Writ Court on the ground that she cannot be considered to be a consumer on account of theft of energy by the occupier of the building. Feeling aggrieved, the appellants have come up with this intra court appeal.

2. The deceased P.Alamelu, owned immovable property in T.S.Nos.66, 67, 35, 50 and 51 in Pallapatty Village, Salem Taluk. She was given electricity Service Connection bearing Nos.776, 348, 5 and 1154. There was another Service Connection bearing No.332 in the name of her husband, the first respondent herein. The property in respect of the Service Connection in S.C.No.332 belongs to the deceased P.Alamelu, who is none other than the wife of the first respondent. The premises in respect of S.C.No.332 was in the possession of one Ravichandran, a tenant. The Electricity Department, disconnected the supply on account of tampering with the electric meter.

3. The deceased P.Alamelu through her application dated 11 July 2002 requested the Assistant Executive Engineer, Shevapet Sub-Division, Salem, to permit her son to start a polythene

factory by making use of the Service Connection bearing No.5. The request was not favourably considered. The appellants initiated action against the deceased on account of unauthorised extraction of energy from S.C.No.5. The appellants assessed the compensation charges at Rs.2,93,828/-. Since the amount was not paid, service connection was disconnected. The said order was challenged in the writ petition in W.P.No.22997 of 2002.

4. Subsequently, the appellants noticed that there was unauthorised extraction of energy in respect of connection in S.C.No.332, which was given to Thiru.Vaiyapuri, the first respondent herein. Since the premises was owned by the deceased P.Alamelu, she was directed to pay a sum of Rs.35,05,501/-. The said amount was included in the bill in relation to the Service Connection in S.C.No.5. The demand was challenged in W.P.No.22998 of 2002.

5. The learned single Judge allowed the writ petitions and directed the appellants to reconnect the supply to the premises of the deceased Alamelu.

6. It was contended by the learned counsel for the respondents that the deceased Alamelu has nothing to do with the premises in the possession of the first respondent. She was therefore not liable to pay the amount assessed by the appellants.

7. There is absolutely no merit in the contention taken by the respondents for the simple reason that the Service Connection was given to the premises owned by the deceased Alamelu. The first respondent is admittedly the husband of the deceased Alamelu. The business was undertaken by the son of the deceased Alamelu and the first respondent. The first respondent is the legal heir of the deceased Alamelu. Mrs.Alamelu is no more. The property owned by her would devolve on the first respondent and her children. The first respondent is therefore the co-owner of the premises in question.

7. The appellants have made the demand after following the due procedure. There is no challenge to the procedure adopted by the appellants. There is also no dispute with regard to the manner of computation of the amount. We are therefore of the view that the learned single Judge was not correct in allowing the writ petitions.

8. The common order passed by the learned single Judge dated 12 June 2014 is set aside.

9. The respondents 1 to 6 are given time till 31 March 2019 to clear the entire arrears. The appellants must receive the

amount without insisting payment of interest. The amount shall be paid in instalments and the entire payment shall be made on or before 31 March 2019. The question of re-connection would arise only after paying 50% of the total demand.

10. The intra court appeals are disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS VI)

//True copy//

Sub Assistant Registrar

svki

TO

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+2cc to Mr.P.Jagadeesan, Advocate SR.No.7346, 7347
+1cc to Mr.S.K.rajamwshuwar, SC for TNEB, SR.No.7547

PPA (CO)
GN(12/03/2018)

W.A Nos.1623 and 1624 of 2014