

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.10773 of 2018

M/s.V.Thangavel and Sons (P) Limited Unit-II
HTSC No.288, No.4, Kapparamalaikadu,
Komarapalayam Amani Village,
Namakkal District
rep. by its Director T.Karthikeyan ... Petitioner

-vs-

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited, 144, Anna Salai, Chennai-2.
2. The Superintending Engineer,
Mettur Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Limited, Mettur Dam. ... Respondents

Petition under Article 226 of the Constitution of India,
praying for the issue of a Writ of Mandamus, directing the 2nd
respondent to permit the petitioner to pay the Additional
Security Deposit of Rs.42,05,518/- alone in 6 equal monthly
instalments along with the regular current consumption charges.

For Petitioner :: Mr.R.S.Pandiyaraj
For Respondents :: Mr.C.Manishankar,
Additional Advocate General
assisted by Mr.S.K.Raameshwar,
Standing Counsel for R1 and 2

ORDER

The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the 2nd respondent to permit the petitioner to pay the Additional Security Deposit of Rs.42,05,518/- alone in 6 equal monthly instalments along with the regular current consumption charges.

2. Learned Counsel appearing for the petitioner submitted that the petitioner is a company registered under the Companies Act, 1956 having its industry at No.4, Kapparamalaikadu, Komarapalayam Amani Village, Namakkal District. It is having a

HT Service Connection bearing 288 which is coming under the jurisdiction of the 2nd respondent herein. The petitioner company is manufacturing yarn products and giving employment opportunities to several hundreds of rural people. This apart, the petitioner is also keeping a Security Deposit (CCD) of Rs.44,02,332/-. While so as per the Regulation 5 (5) (ii) (a) of the Tamil Nadu Electricity Supply Code, 2004, the CCD should be two times of the average of the electricity charges for the preceding 12 months prior to April for the monthly billed consumer. In view thereof, the Superintending Engineer, Mettur Electricity Distribution Circle, Tamil Nadu Generation and Distribution Corporation Limited, Mettur Dam/the 2nd respondent herein, vide his letter dated 12.4.2018 sought the petitioner to pay additional security deposit of Rs.42,05,518/- over and above the existing deposit of Rs.44,02,332/- in one lump sum failing which the petitioner was informed that his service connection would be disconnected. Hence, the present Writ Petition.

3. The learned Counsel for the petitioner further submitted that on an earlier occasion, when a similar issue was brought to the notice of a Division Bench of this Court in W.A.Nos.407/2012 etc. batch, taking note of the fact that the appellants therein have made 3 instalments as per the order passed by the learned Single Judge, granted three more instalments and altogether 6 instalments were granted to pay the additional security deposit. Therefore, the petitioner herein may also be granted 6 instalments to pay the additional security deposit of Rs.42,05,518/-. The learned Counsel for the petitioner also placed on record various orders passed subsequent to the order of the Division Bench cited supra, viz. Orders passed by a learned Single Judge of this Court in W.P.No.9049/2016 dated 4.5.2016, W.P.No.11500/2017 dated 5.5.2017, W.P.No.13283/2017 dated 24.5.2017 and W.P.No.8308/2015 dated 20.5.2015 respectively.

4. Mr.C.Mani Shankar, learned Additional Advocate General assisted by Mr.S.K.Raameshwar, learned Standing Counsel for the respondents submitted that the prayer made by the petitioner for grant of six instalments on the basis of the Regulation 5 (5) (ii) (a) of the Tamil Nadu Electricity Supply Code, 2004, is wholly misconceived. Contending further, the learned Additional Advocate General submitted that although similar matter was considered by the Division Bench of this Court in W.A.Nos.407/2012 etc. batch dated 2.8.2012, the Division Bench has granted only 3 instalments as per the Regulation 5 (5) (ii) (a) of the Tamil Nadu Electricity Supply Code, 2004 taking note of the fact that the said company was unable to pay the balance amount of security deposit, that cannot be mistaken that the Division Bench has granted 6 instalments. Again drawing the attention of this Court to paragraph 7 of the judgment of the Division Bench in W.A.No.407/2012, the learned Additional

Advocate General submitted that as per the amended provision to Regulation 5(5) (iv), the additional security deposit should be collected only in three instalments. Therefore, the petitioner may be granted 3 instalments, but not 6 instalments. The reason being the Division Bench has also given 3 instalments, this has been wrongly misinterpreted before this Court as though the 3 instalments given by the Division Bench should be counted with the 3 instalments taken by the petitioner therein.

5. Again, the learned Counsel for the petitioner submitted that in various similar cases, in view of six instalments granted to several other companies, similarly placed like that of the petitioner, which faced financial crunch due to economic slow down, has been paying the additional security deposit in 6 instalments. Since the petitioner company has to pay the security deposit in addition to the previous security deposit (CCD) of Rs.44,02,332/-, no prejudice would be caused to the respondents, if the petitioner is also granted 6 instalments as they are not able to cope up with the present economic crisis.

6. This Court agrees with the submissions made by the learned Counsel for the petitioner that the amended Regulation 5 (5) (iv) of the Tamil Nadu Electricity Supply Code stipulates three instalments to pay the additional security deposit. Therefore, following the earlier orders passed by this Court including the one passed by this Court in W.P.No.9049/2016 dated 4.5.2016, W.P.No.11500/2017 dated 5.5.2017, W.P.No.13283/2017 dated 24.5.2017 and W.P.No.8308/2015 dated 20.5.2015, taking note of the financial status of the petitioner, this Court grants six equal monthly instalments to clear the balance security deposit of Rs.42,05,518/-. The 1st instalment is payable on or before 15th of May, 2018, the 2nd instalment on or before 15th of June, 2018, the 3rd instalment on or before 15th July, 2018, the 4th instalment on or before 15th of August, 2018, the 5th instalment on or before 15th of September, 2018 and the 6th instalment on or before 15th of October, 2018. It is made clear that if the petitioner commits any single default, it is for the respondents to take appropriate action against him.

7. With the above observation and direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS II)

//True copy//

Sub Assistant Registrar

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To

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited, 144, Anna Salai, Chennai-2.

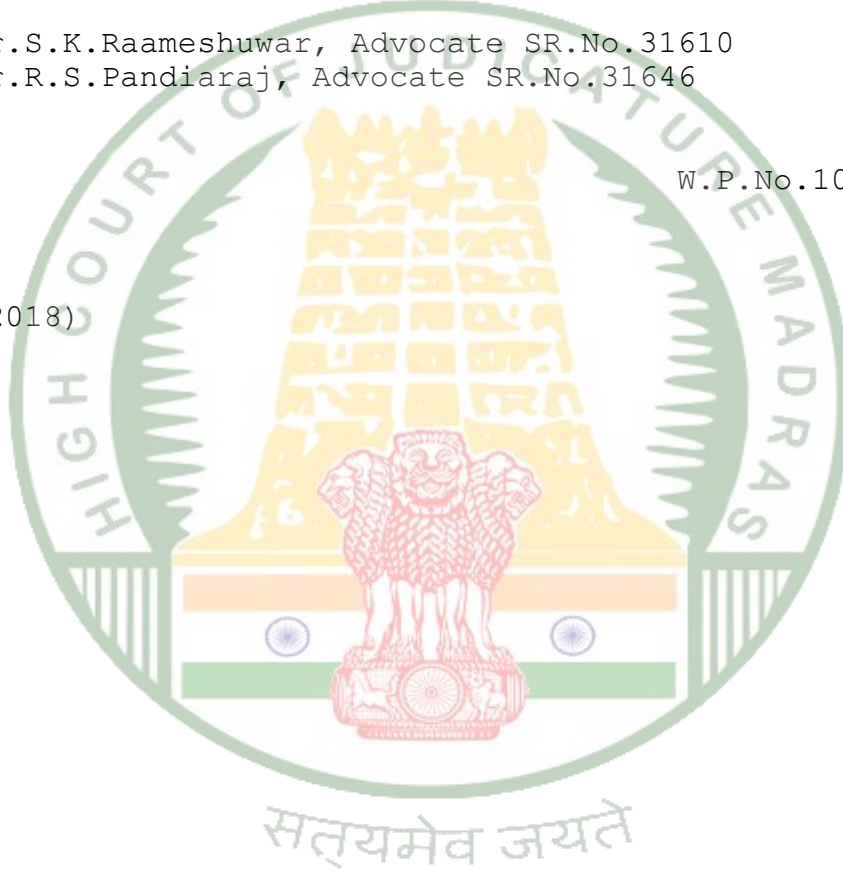
2. The Superintending Engineer,
Mettur Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Limited, Mettur Dam.

+1cc to Mr.S.K.Raameshuwar, Advocate SR.No.31610

+1cc to Mr.R.S.Pandiaraj, Advocate SR.No.31646

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