

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2018

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.1523 and 1524 of 2013

K.Palanisamy

... Petitioner in
W.P.No.1523 of

2013

P.Ramamoorthy

... Petitioner in
W.P.No.1524 of

2013

Vs.

1. The Assistant Executive Engineer,
Tamil nadu Electricity Board, TANGED CO/CEDC/South
Mangalam - 641 663.
Tirupur

2. The Assistant Engineer.
Tamil Nadu Electricity Board,
Vanji palayam,
Tiruppur.

.... Respondents
in both W.Ps.

PRAYER IN BOTH W.Ps.: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records on the file of the 1st respondent in Lr. No. AEE/O&M/MGM F. theft/D N.o.....2012 dated 31.12.2012 quash the same being illegal & arbitrary.

For Petitioner
in both W.Ps.

: Mr.S.N.Kirubanandam

For Respondents
in both W.Ps.

: Mr.S.K.Rameshuwar
Standing Counsel (EB)

C O M M O N O R D E R

Challenging the order passed by the Assistant Executive Engineer in proceedings dated 31.12.2012 in respect of an allegation of theft of energy committed by the writ petitioner, the present Writ Petitions have been filed.

2. The learned counsel appearing for the petitioners states that adequate opportunity has not been provided to the writ petitioners to defend their case in accordance with law. Thus, the writ petitioners are entitled for a fair hearing from the respondents.

3. The learned counsel appearing for the respondents opposed the contention by stating that even the personal hearing was provided to the writ petitioner before passing the impugned order. Though the learned counsel appearing for the writ petitioner states that personal hearing was an empty formality, the petitioners were very much present and submitted his defence statement. Thus, the principle of natural justice has been followed.

4. The learned counsel for the respondents further states that the writ petitioner has committed the theft of energy by using the free electricity service connection for the purpose of extracting water for commercial purposes. Thus, the criminal case was registered against the writ petitioner in F.I.R.No. 1434 of 2012 and the same is pending before the competent Court of Law. This apart, even the interim order granted by this Court, has not been complied with by the writ petitioner in respect of W.P.No.1524 of 2013. Thus, the writ petitioner in W.P.No.1524 of 2013 is not entitled for any relief.

5. This Court is of the opinion that the assessment made by the competent authorities in respect of quantum of theft of energy, cannot be adjudicated in these writ petitions. Such complex facts and circumstances arising on account of theft of energy, cannot be adjudicated on merits in these writ petitions. In respect of the point raised by the learned counsel for the petitioners that opportunity was not given, this Court is of the opinion the personal hearing was given to the writ petitioners and they have already made their submissions before the competent authorities and therefore, the same cannot be accepted at this point of time. This apart, the criminal case was also pending against the writ petitioners in this regard. In these circumstances, the respondents are bound to calculate the entire assessment of electricity charges to be paid and the electricity charges and other charges are to be paid in accordance with the Supply Code and Regulations and initiate appropriate action for recovery of such dues without any further delay.

6. In the above view of the matter, there is no infirmity in respect of the impugned order passed in these Writ Petitions and accordingly, the Writ Petitions are dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS VII)

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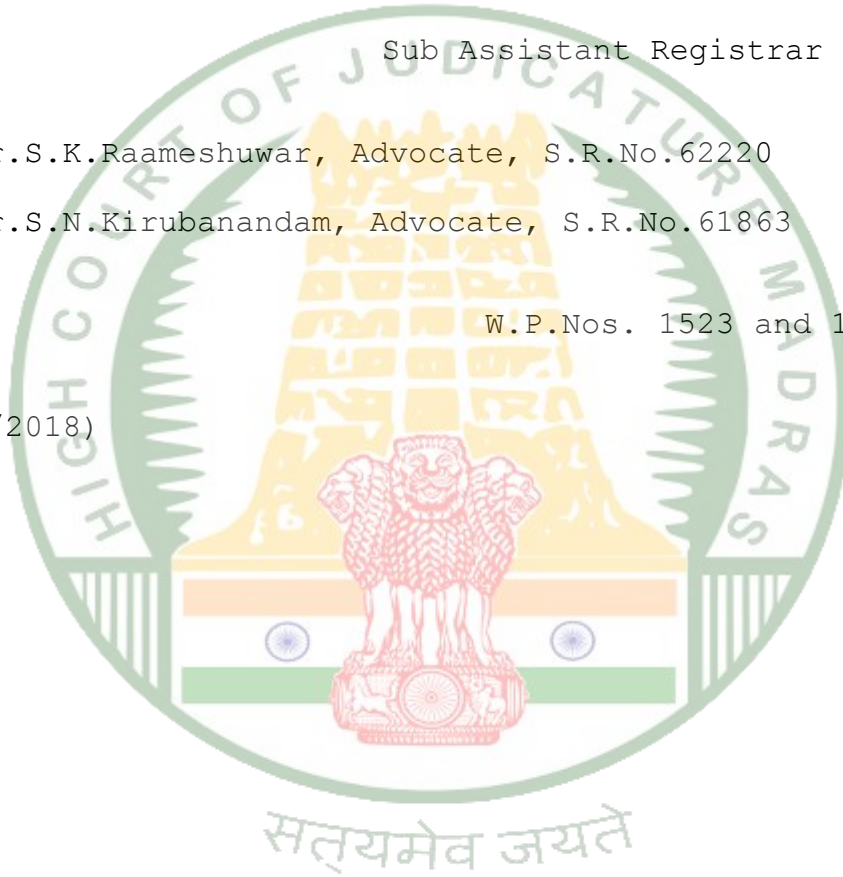
Sub Assistant Registrar

+1cc to Mr.S.K.Raameshuwar, Advocate, S.R.No.62220

+1cc to Mr.S.N.Kirubanandam, Advocate, S.R.No.61863

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VGII(CO)
GSP(04/10/2018)



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