



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Monday, the Twenty Fifth day of June Two Thousand Eighteen

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PRESENT
The Hon`ble Mr.Justice S.S.SUNDAR

WMP(MD) No.12207 of 2018
IN
WP(MD) No.11614 of 2018

M.MURUGAN

... PETITIONER/PETITIONER/
PETITIONER

Vs

1 THE ADDITIONAL CHIEF ENGINEER (METRO)
TANGEDCO, OFFICE OF THE SUPERINTENDENT OF ENGINEER,
MADURAI.

2 THE EXECUTIVE ENGINEER (APTS)
TANGEDCO, OFFICE OF THE SUPERINTENDENT OF ENGINEER,
MADURAI.

3 THE ASSISTANT EXECUTIVE ENGINEER (O & U),
TANGEDCO, OFFICE OF THE SUPERINTENDING OF ENGINEER,
THIRUMANGALAM, MADURAI.

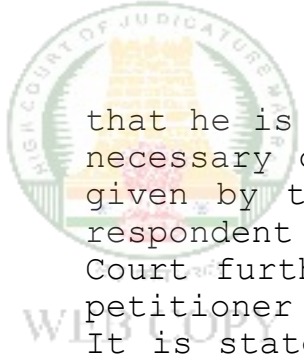
4 THE ASSISTANT ENGINEER (O & M),
TANGEDCO, OFFICE OF THE SUPERINTENDING OF ENGINEER,
THIRUMANGALAM, MADURAI.

... RESPONDENTS/RESPONDENTS/
RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to modify the order dated 27.05.2018 in WMP(MD). No.10581 of 2018 in WP(MD). No.11614 of 2018 on condition to pay 50% of the amount claimed in the Impugned Order dated 18.05.2018

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.D.SENTHIL, Advocate for the petitioner and of MR.S.M.S.JOHNNEY BASHA, Advocate on behalf of the Respondents the court made the following order:-

The learned counsel for the petitioner states that earlier the petitioner filed the writ petition in W.P(MD)No.21519 of 2017 directing the respondent to conduct enquiry regarding the condition of meter and the writ petition in W.P(MD)No.22236 of 2017 was filed challenging the order, whereby the petitioner was held liable to pay a sum of Rs.3,09,057/- towards electricity consumption charges. When both the writ petitions were taken up, the petitioner stated



that he is inclined to pay 30% of the total dues and inclined to pay necessary charges for testing the meter. Based on the undertaking given by the petitioner, this Court passed an order directing the respondent to resume electricity service connection forthwith. This Court further directed the respondent to consider the claim of the petitioner on payment of necessary charges in accordance with law. It is stated that thereafter, the meter was sent for testing and a report was received from the competent authority to the Department stating that the meter was not defective and therefore, the respondent passed the order directing the petitioner to pay a sum of Rs.2,22,055/- within seven days. By this communication, the petitioner was asked to deposit a sum of Rs.2,22,055/-, after deducting 30% of the amount already paid by the petitioner. The petitioner filed W.P(MD).No.11614 of 2018 and W.M.P(MD).No.10581 of 2018, challenging the communication dated 18.05.2018. This Court, in W.M.P(MD).No.10581 of 2018, passed an order granting interim stay on condition that the petitioner shall deposit 50% amount claimed in the impugned order, dated 18.05.2018.

2.The said order was challenged before the Hon'ble Division Bench of this Court in W.A(MD)No.840 of 2018 by the petitioner and the Hon'ble Division Bench, by order dated 20.06.2016, passed the following order:-

"The learned counsel for the appellant further contended that already 30% of the demand was paid by the appellant in pursuant to the earlier proceedings. If that is so, it is for the appellant to approach the writ Court and seek for modification of the interim order. Without doing so, filing the writ appeal cannot be entertained."

3.Pursuant to the direction of the Hon'ble Division Bench of this Court, the petitioner has filed the present miscellaneous petition to modify the said interim order dated 31.05.2018.

4.The learned counsel for the petitioner states that this Court in W.M.P(MD).No.10581 of 2018 in W.P(MD).No.11614 of 2018 passed a conditional order directing the petitioner to deposit 50% of the amount claimed in the impugned order dated 18.05.2018, without taking into account the 30% of the amount already paid by the petitioner and hence, the order dated 31.05.2018 should be modified suitably.

5.The learned counsel for the respondent seriously objects on the ground that the petitioner is liable to pay the entire amount as per the previous order as it has now been confirmed that there is no defect in the meter.

6.In view of the fact that the contention of the petitioner earlier that the exorbitant amount of payment by way of electricity consumption charges was due to erroneous showing in the defective meter and in view of the fact that the meter was tested and found working in good condition, the petitioner has no arguable point in the writ petition. However, it is seen that the petitioner has



raised some factual and legal points, which have to be considered only at the time of disposal of the main writ petition. The order dated 31.05.2018 in W.P(MD).No.10581 of 2018 does not refer to the earlier payment by the petitioner.

7. In such circumstances, taking into consideration the contention of the learned counsel for the petitioner that there was no consideration of merits of the case on 31.05.2018, this Court is inclined to modify the order. Accordingly, the following order is passed:-

The earlier order dated 31.05.2018 in W.M.P(MD). No.10581 of 2018 is modified to the effect that there shall be an interim stay on condition that the petitioner deposits another 30% of the amount claimed in the impugned order dated 18.05.2018, within a period of two weeks from the date of receipt of a copy of this order, failing which, the interim stay granted shall stand automatically vacated without any further reference to this Court.

8. With the above direction, W.M.P(MD).No.12207 of 2018 is allowed.

sd/-
25/06/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE ADDITIONAL CHIEF ENGINEER (METRO)
TANGEDCO, OFFICE OF THE SUPERINTENDENT OF ENGINEER, MADURAI.
 - 2 THE EXECUTIVE ENGINEER (APTS)
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TANGEDCO, OFFICE OF THE SUPERINTENDING OF ENGINEER,
THIRUMANGALAM, MADURAI.
- +1. C.C. to MR.D.SENTHIL, Advocate SR.No.11295

ORDER IN
WMP(MD) No.12207 of 2018 IN
WP(MD) No.11614 of 2018
Date : 25/06/2018