



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WP (MD) No.6332 of 2014
and
MP(MD)Nos.1 and 2 of 2014

A-1462, Thirumangalam Agricultural
Producers Cooperative Marketing Society Ltd.,
Thirumangalam,
rep.by its Secretary
having office at Annai Illam,
No.55/65, Madurai Main Road,
Thirumangalam - 625 706
Madurai District.

... Petitioner

Vs.

1.The Superintending Engineer,
Madurai Electricity Distribution Circle,
TANGEDCO, K.Pudur, Madurai - 625 007.

2.The Executive Engineer,
Distribution/TANGEDCO,
Sengulam, Thirumangalam,
Madurai District.

3.The Assistant Engineer,
Distribution/TANGEDCO,
Sengulam, Thirumangalam,
Madurai District.

... Respondents

Petition filed under Article 226 Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the impugned order passed by the third respondent in Lr.No.AE/D/SGM/F.Dkt/D.No.602/2013-2014 dated 21.03.2014 and quash the same.

For Petitioner : Mr.M.Saravanan

For Respondents : Mr.E.P.Venkateshwar
for Mr.S.M.S.Johny BashaORDER

Challenging the notice issued by the third respondent, directing the petitioner to pay the electricity consumption charges, the present writ petition has been filed.



2. According to the petitioner, earlier, the third respondent has issued demand notice in respect of two service connections of the petitioner. Challenging the above said demand notice, the petitioner has filed a suit in O.S.No.10 of 2002 on the file of the District Munsif Court, Thirumangalam. The above suit came to be dismissed. Challenging the same, the petitioner has filed an Appeal in A.S.No.213 of 2004 on the file of the I Additional Sub Court, Madurai which has also been dismissed. Challenging the same, the petitioner has preferred second appeal before this Court in S.A(MD)No.643 of 2006. This Court, while dismissing the second appeal, by judgment dated 18.11.2011, directed the respondents therein to conduct fresh enquiry and pass orders after giving reasonable opportunity to the petitioner. Now, the third respondent, without giving any opportunity to the petitioner, straight away has passed the impugned order, directing the petitioner to pay the amount. Aggrieved by the same, the present writ petition has been filed.

3. The learned Standing Counsel appearing for the respondents submitted that as per the direction issued by this Court in S.A(MD)No.643 of 2006, reasonable opportunity has been given to the petitioner enabling him to raise objections and proper enquiry has also been conducted before passing the impugned order.

4. I have considered the rival submissions made on either side and perused the records carefully.

5. As rightly contended by the learned counsel appearing for the petitioner, while dismissing S.A(MD)No.643 of 2006, this Court has passed the following order:

"In the result, the second appeal is dismissed, leaving the parties to bear their own costs. The judgment and decree of the first appellate Court dated 06.07.2005 in A.S.No.213 of 2004 and the judgment and decree of the trial Court in O.S.No.10 of 2002 dated 05.01.2004 are hereby confirmed by this Court, for the reasons assigned in this appeal. Liberty is granted to the appellant/plaintiff to raise all factual and legal issues before the respondents/defendants/appropriate authority in the manner known to law in regard to the claim made by the respondents/defendants as per Exs.A1 and A2 and upon hearing the objections of the appellant/plaintiff and providing reasonable opportunity, it is open to the respondents/defendants to pass appropriate orders in the manner known to law and in accordance with law, of course, after providing due opportunities to both the parties.

The respondents/defendants are also to provide a working sheet with necessary details to the appellant/plaintiff for considering their objections



in regard to the claim made by the electricity board. In any event, the respondents/defendants is to pass appropriate orders by taking into the consideration of Ex.A3 letter dated 28.08.2001 of the appellant/plaintiff within a period of twelve weeks from the date of receipt of a copy of this judgment."

6. When this Court specifically directed the respondents to conduct enquiry and also provide reasonable opportunity to the petitioner, the third respondent, without conducting any enquiry and affording an opportunity to the petitioner, has straight away passed the impugned order. In the above circumstances, the impugned order passed by the third respondent is liable to be set aside.

7. In fine, this writ petition is allowed. The impugned order passed by the third respondent dated 21.03.2014 is set aside and the third respondent is directed to conduct enquiry as per the direction issued by this court in S.A(MD)No.643 of 2006 and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, MP(MD)Nos.1 and 2 of 2014 are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

+1CC to Mr.S.M.S.Johnny Basha, Advocate, SR.No. 40715

+1CC to Mr.R.Subramanian, Advocate, SR.No. 40739

WP(MD)No.6332 of 2014

mj

AM/KK/SAR 1/22.01.2018/3P/3C