

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.21474 of 2007

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief/ s:

“...to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the provisional assessment notice in letter No.ADE/OP/D-IX/C-III/HYD/Pil/N1-170/II/D.No.1138 dated 3-10-2007 of the 2nd respondent as highly illegal, arbitrary, unjust and consequently set aside the same and pass such other order or orders..”

I have heard the submissions of the learned counsel for the petitioner and of the learned standing counsel appearing for the respondents 1 to 3. I have perused the material record.

The facts, as discernable from the pleadings and submissions, which are necessary for consideration, in brief, are as follows:

The petitioner is running his cloth shop in a leased premises which is provided with L.T service connection bearing No.N1-170 Category-II provided by the then A.P.S.E.B (presently T.S.S.P.D.C.L). While so, the impugned notice was issued by the 2nd respondent on the ground that during the course of inspection it is found that there is pilferage of the energy; and, a provisional assessment of the charges for energy pilfered was made for a sum of Rs.96,616/-. In the said provisional assessment order/ notice, the petitioner was informed that if the petitioner wishes to obtain reconnection, he may pay 50% of the assessed amount besides supervision charges and reconnection charges etcetera and seek restoration of the supply and pay the balance 50% of the amount in instalments. Aggrieved thereof, the petitioner preferred this writ petition.

This Court, while admitting the writ petition, on 09.10.2007, passed the following interim order: 'There shall be interim direction subject to condition of paying an amount of Rs.25,000/- within a period of two weeks from today.'

It is stated that the petitioner complied with the said condition.

At the hearing, learned counsel for the petitioner and the learned standing counsel would submit as follows: - 'In matters of similar nature, this Court, is referring the cases to Special Court for determination of the civil liability, however, while directing payment of 1/4th of the demanded amount,. Therefore, in this writ petition also, a similar direction may be given and the writ petition may be disposed of; however, since the petitioner has already paid 25% of the demanded amount, no further direction to pay any further sum of amount need be given.'

Having regard to the facts and circumstances of the case and the submissions made by both the sides, the case of the petitioner shall be referred to the Special Court for determination of civil liability. Nonetheless, the petitioner is liable to pay the current monthly consumption charges as per meter readings.

The writ petition is, accordingly, disposed of.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

06.06.2018
Vjl