

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**W.P.No.26124 of 2018**

**ORDER:**

Heard the learned counsel for petitioner and Sri R.Vinod Reddy, learned Standing Counsel for the respondents.

2. Petitioner is the tenant of the subject premise and is running a hotel there. There was a visit on 23-04-2018 at 16.23 hours by the Assistant Engineer, SD-1, DPE (2<sup>nd</sup> respondent) to the said premises and a *panchanama* was prepared on that day alleging that the meter cover seals were in tampered condition, that meter scrolling push button was not working. It was also alleged that the petitioner was dishonestly obstructing/consuming/using electricity and is guilty of theft of electricity under Section 135 of the Electricity Act, 2003. Pending determination of civil liability by the appropriate Court under Section 154 (5) of the said Act, electricity charges due to 1<sup>st</sup> respondent have been provisionally assessed at Rs.23,80,300/- and petitioner was asked to pay 50% thereof for getting reconnection.

3. It is stated that petitioner has paid 50% amount demanded in the provisional assessment notice dt.24-04-2018. Petitioner filed objections thereto on 14-05-2018. Thereafter, another notice was issued on 18-05-2018 demanding to pay Rs.62,000/- towards compounding fee which was also paid. Petitioner then approached I Additional Metropolitan Sessions Judge-cum-Special Court, L.B.Nagar, Ranga Reddy District, by filing application under Section 154 (5) of the said Act, but the same was returned by the said Court on the ground that the petitioner was challenging the provisional assessment notice dt.24-04-2018 and had not asked for

determining the civil liability of the petitioner in terms of money for theft of energy.

4. This order passed on 09-07-2018 is assailed in this Writ Petition.

5. Petitioner contends that the petitioner is entitled to have the Special Court determining civil liability under Section 154 (5) of the Act, and though the prayer of the petitioner in the O.P. filed was otherwise, the Court could have at least numbered it for determining the civil liability, instead of returning it.

6. It is not disputed by the learned Standing Counsel for 1<sup>st</sup> respondent that it is the Special Court which is competent to decide the civil liability of the petitioner on the allegations contained in the provisional assessment notice.

7. Accordingly, the Writ Petition is disposed of directing the respondents to refer the matter to the Special Court for determination of civil liability and till such determination is made, the electricity connection of the petitioner shall not be disconnected. No costs.

8. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

**JUSTICE M.S.RAMACHANDRA RAO**

Date: 27-07-2018  
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