

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.9181 of 2017

ORDER:

In this Writ Petition, petitioner questioned notice, dated 06.04.2016 issued by the second respondent – Assistant Divisional Engineer, Operation, Kakinada Town, East Godavari District, demanding him to pay a sum of Rs.1,11,034/- in addition to additional charges for the belated payment immediately, otherwise, his service connection would be disconnected.

A perusal of the impugned notice reveals that on the ground that the petitioner was involved in pilferage of power, he was issued a provisional assessment notice, challenging which, he filed O.S.No.852 of 2007 in the Court of I-Additional Junior Civil Judge, Rajahmundry, and the same came to be dismissed vide judgment, dated 22.06.2012, aggrieved by which, he filed A.S.No.88 of 2007 in the Court of District and Sessions Judge, Rajahmundry, and the same came to be dismissed vide judgment, dated 20.11.2012. In other words, the demand made by the second respondent had become final and the petitioner is liable to pay the provisionally assessed amount. As the petitioner had paid 50% of the provisionally assessed amount pending final

assessment, the impugned notice was issued with respect to the balance payment.

It is contended by the learned Standing Counsel that payment of compounding fee is only to ensure the petitioner from being prosecuted but the civil liability cannot be wiped away, particularly, when the same has become final in the judicial proceedings.

In view of the fact that the demand made by the second respondent came to be confirmed by a judicial forum, the petitioner's liability cannot be waived by this Court in exercise of the discretionary jurisdiction under Article 226 of the Constitution of India. However, considering the request made by the learned counsel for the petitioner to allow the petitioner to pay the outstanding amount in instalments, the Writ Petition is disposed of, subject to the condition of the petitioner paying a sum of Rs.25,000/- within two weeks from today and the balance amount in three equal instalments, failing which, the respondents are at liberty to disconnect the power supply to the service connection of the petitioner. It is made clear that granting of instalments does not absolve the petitioner from payment of additional charges, in terms of the General Terms and Conditions

of Supply, as noted by the Andhra Pradesh Electricity Regulatory Commission.

Miscellaneous Petitions, if any pending shall stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

25th APRIL, 2018.

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