

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.43400 OF 2018

Date:30.11.2018

Between:

P.Ram Mohana Rao, s/o. Hanumantha Rao, Aged about 55 years,
Occu: Business, r/o. Door No.13-2-30, 1st line, Gunturvarithota,
Guntur, Andhra Pradesh.

.....Petitioner

and

Southern Power Distribution Company of A.P. Limited,
rep.by its Chairman and Managing Director, Corporate Office
at 19-13-65/A, Tiruchanur Road, Srinivasapuram,
Tirupathi, Chittoor district and others.

.....Respondents



The Court made the following:

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ORDER:

Petitioner claims to be owner of M/s Sri Venkateswara Cotton Ginning Mill at Lalpuram in Guntur. Petitioner claims to have purchased the same from the earlier owners in the year 1995. There was dispute regarding who should pay the arrears of electricity consumed prior to purchase made. Father of petitioner, petitioner and another instituted O.S.No.445 of 1998 in the Court of II Additional Junior Civil Judge, Guntur. Said suit was decreed directing the defendants 4 and 5, who were erstwhile owners, to pay the back billing amount to defendants 1 to 3 i.e., Distribution-Company for the electricity consumed during the relevant period. It was further ordered that defendants 1 to 3 should not interfere with the peaceful possession and enjoyment of supply of electricity or to disconnect the service connection to the plaintiffs. Aggrieved thereby, one of the defendants therein preferred A.S.No.33 of 2001 on the file of VI Additional District Judge, Guntur and the same was dismissed affirming the decision of trial Court.

2. It appears from the reading of Assistant Accounts Officer's notice issued to M/s. Venkateswara Cotton Ginning Mill on 19.08.2018, the previous owner paid the back billing amount during February, 2006 as per the Court orders. The existing consumer has to pay cc bills along with delayed payment charges on unpaid/late paid cc bills from February, 2006. The Assistant Accounts Officer quantified the amount due as 4,87,065/- out of total amount of 6,04,182/- towards arrears of cc bills and surcharge thereon till the end of August, 2018. Further charges

on back billing amount of 1,17,117/- is also demanded. It appears, petitioner went before the next higher authority and the authority by his Memo dated 12.10.2018 issued instructions to his Subordinates to comply with the decree passed by the trial Court in O.S.No.445 of 1998. This Writ Petition is filed alleging non-implementation of the Memo issued by the Chief General Manager on 12.10.2018.

3. According to learned counsel for petitioner, initially there was a disconnection and later power supply is restored. However, learned counsel submits that in spite of directions of superior authority, the lower authority is demanding to pay the amount.

4. There is no clarity from the order of the Chief General Manager on what he meant by the compliance of the decree passed by the trial Court. In terms of the decree passed by the trial Court, the previous owner is liable to pay the arrears of electricity charges up to the date of sale, and after the date of sale petitioner is liable to pay. From the reading of the proceedings of Assistant Accounts Officer, dated 19.08.2018, he demanded arrears of electricity charges from February, 2006. Thus, Memo dated 19.08.2018 cannot held as in violation of the decree passed by the trial Court as it is confined to arrears from February, 2006 only.

5. It is not known whether petitioner is due in arrears of the amounts for the previous years and whether there was a demand. In the absence of basic details, no opinion can be expressed and it is for the authority to take appropriate action. If petitioner has already paid the amount demanded or disputes the assessment made by the competent authority on payment of electricity charges

alleged to be due from the petitioner, it is for the petitioner to satisfy the competent authority with supporting material to show that the amount is already paid and cannot be demanded, but cannot take shelter on the decree passed by the trial Court in O.S.No.445 of 1998 and challenge the demand notice *per se*. More so, the decree of the Civil Court is confined to payment of arrears to the period prior to sale by the previous owner and not applicable to the post sale electricity consumed by the petitioner.

6. Thus, leaving it open to petitioner to satisfy the Superintending Engineer, Operation Circle, Guntur of SPDCL about payment, if any, already made by him and that demand made by the Assistant Accounts Officer is not valid, Writ Petition is disposed of. As and when petitioner approaches the Superintending Engineer with all the supporting material, the Superintending Engineer shall examine and if satisfied with the claim of petitioner, to issue suitable directions for exemption of the amount demanded. If the Superintending Engineer is not agreeing with the stand of petitioner and confirms the demand made by the Assistant Accounts Officer, it is open to petitioner to request to grant instalments for payment of amounts due. Pending miscellaneous petitions if any shall stand closed.

JUSTICE P.NAVEEN RAO

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