

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2019

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.12871 of 2012
and M.P.Nos.1 & 2 of 2012

J.Babu

...Petitioner

vs.

1. The Chairman and Managing Director,
Tamil Nadu Generation and Distribution
Corporation Limited,
144, Anna Salai,
Chennai - 600 002.

2. The Assistant Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited,
(TANGEDCO),
Chennai Electricity Distribution Circle/Central,
Kondithope, Chennai - 600 001.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, seeking for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned demand notice Lr.No.AE/O&M/Kondi/Ko.Thani/No.375/2012 dated 06.03.2012 and subsequent entry in the Electricity Consumption While Meter Card relating to the A/c.No.108:055:051 and quash the same as illegal, arbitrary and unlawful, against the principles of natural justice and the provisions of the Tamil Nadu Electricity Distribution Code 2004.

For Petitioner : Mr.S.Saravanan

For Respondents : Mr.P.R.Dilip Kumar

ORDER

The Writ Petition has been filed by the petitioner to quash the impugned demand notice Lr.No.AE/O&M/Kondi/Ko.Thani/No.375/2012 dated 06.03.2012 and subsequent entry in the Electricity Consumption While Meter Card relating to the A/c.No.108:055:051.

2.The case of the petitioner is that the petitioner's father is the absolute owner of the properties at No.23, Lawyer's

Chinnathambi Street, Kondithope, Chennai. When the petitioner's father was alive he let out the Godown at No.9A, T.R.Mudali Street, Kondithope, Chennai to the tenant M/s.Mohan Raj Plastics for commercial purpose. When the tenant M/s.Mohan Raj Plastics was in occupation of the premises, they applied for separate service connection in his name and the second respondent after satisfying himself that the tenant was in lawful occupation sanctioned the L.T.Service Connection in A/c.No.108:060:196 under commercial tariff. While being so, the officials of the respondents Board inspected the premises on 30.07.2002 and found the alleged theft of electricity in the said service connection by the tenant and registered a criminal case against the tenant and subsequently, was enlarged on bail. The second respondent disconnected the electricity connection and initiated the proceedings against the tenant. While being so, the second respondent passed the impugned demand notice against the petitioner on 06.03.2012 and directed the petitioner to pay a sum of Rs.14,25,169/- being the amount levied towards loss cause to the respondents 1 & 2 due to the theft of electricity committed by the erstwhile tenant, M/s.Mohan Raj Plastics in the service connection A/c.No.108:060:196. Challenging the same, the present writ petition has been filed before this Court.

3.The learned counsel appearing for the petitioner would submit that immediately after passing the impugned demand notice, the petitioner made a detailed objection and representation dated 27.03.2012 to the second respondent stating that since the service connection No.108:060:196 stood in the name of tenant M/s.Mohan Raj Plastics, the said tenant committed theft of electricity. Hence, the petitioner is not responsible for the theft committed by the tenant, and the recovery proceedings initiated against the petitioner is unsustainable one.

4.The learned Standing counsel appearing for the respondent would submit that the liberty may be given to the respondent Board to proceed against the tenant M/s.Mohan Raj Plastics in the present case.

5.Considering the facts and circumstances of the case, the petitioner did not commit any offence and the criminal case was registered against the tenant. However, the respondent Board proceeded against the petitioner which is unsustainable one. Admittedly, the present electricity connection stood in the name of erstwhile tenant M/s.Mohan Raj Plastics and not in the name of petitioner and the petitioner is not liable under Section 135 of the Tamil Nadu Electricity Board Act. I am inclined to set aside the impugned demand notice dated 06.03.2012 and the liberty is granted to the Electricity Board to proceed against M/s.Mohan Raj Plastics in accordance with law. However, if the

petitioner deposited any amount to the recovery proceedings, it is open to the petitioner to recover the same from the tenant M/s.Mohan Raj Plastics and entitle to adjust from the advance amount.

6.With the above observation and direction, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Chairman and Managing Director,
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 - 2.The Assistant Engineer,
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(TANGEDCO),
Chennai Electricity Distribution Circle/Central,
Kondithope, Chennai - 600 001.
- +2 CC to Mr.S.Saravanan, Advocate sr 87237
+1 CC to Mr.P.R.Dhilip Kumar, Advocate sr 87044.

सत्यमेव जयते

W.P.No.12871 of 2012

NMI (CO)
SP(27/11/2019)

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