

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.6.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.A.No.675 of 2013

1. The Assistant Engineer/O&M,
Tamil Nadu Electricity Board,
Vyasarpadi, Chennai 600 039.
 2. The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai 600 002.
- Appellants/Respondents

Versus

1. Mrs.M.Leeladevi (Owner)
rep. by her Power Agent M.Umesh
 2. M.Rajesh (Occupant)
- Respondents/Petitioners

Prayer: Writ Appeal filed under Clause 15 of Letters Patent against the order of this court dated 3.1.2013 in W.P.No.20874 of 2003.

Prayer in WP No.20874/03 : Writ Petition filed under Article 226 of the Constitution of India for issue a Writ of Certioarified mandamus, to call for the records relating to the letter No.EMI Ro/Viba/CO Thani/A.No.174/dated 14.05.2003, passed by the first respondent and quash the same and consequently direct the respondent to grant service connection in respect of premises door No.31-A(31/1), Viyasarpadi, Industrial Estate, Chennai-600 039.

For appellant : Mr.P.R.Dhilipkumar,
Standing Counsel

For Respondents : No appearance.

JUDGMENT

(Judgment of the court was made by Dr.VINEET KOTHARI, J.)

None appears for the Respondents despite the substituted service of notice was effected.

2. The Appellant-Tamil Nadu Electricity Board, through its Assistant Engineer/O&M has filed the present Writ Appeal against the order dated 3.1.2013 passed by the learned Single Judge wherein the learned Single Judge, following the judgment of the Hon'ble Supreme Court in the case of Isha Marbles v. Bihar State Electricity Board and another ((1995) 2 SCC 648) held that the purchaser of the Industrial Unit from the erstwhile owner cannot be made liable to square up the arrears of electricity consumption dues from the erstwhile owner especially when such demand is as against the alleged theft of power. The operative portion of the order passed by the learned Single Judge is quoted below for ready reference:-

"9. Therefore, in the absence of any attachment or charge over the immovable property created by the Board, the petitioner cannot be called upon to clear the entire arrears payable by the erstwhile owner on account of theft of energy committed by him. Hence the impugned order calls for interference. Accordingly the writ petition is allowed and the impugned order is set aside. Since pursuant to the interim direction, the electricity service connection has already been granted, no further orders are required in this writ petition, except to observe that the petitioner shall continue to pay the electricity consumption charges without any default. It is needless to state that it is always open to the respondent Board to proceed against the erstwhile owner of the property for recovery of the amount due and payable as penal charges for theft of energy committed. No costs. Consequently, connected miscellaneous petition is closed."

3. Having heard the learned counsel for the appellant, we are satisfied that there is no merit in the present Writ Appeal filed by the Tami Nadu Electricity Board and the matter stands

covered by the decision of the Hon'ble Supreme Court as noted by the learned Single Judge and therefore, the present Appeal is devoid of merit and is liable to be dismissed and accordingly, it is dismissed. Copy of this judgment may be sent to the respondents. No costs.

Sd/-

Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

ssk.

To:

1. The Assistant Engineer/O&M,
Tamil Nadu Electricity Board,
Vyasarpadi, Chennai 600 039.
2. The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai 600 002.
3. Mrs.M.Leeladevi (Owner)
Power Agent M.Umesh
No.27, Sriperambudur High Road,
Manavalur Nagar, Thiruvallore-602 002.
3. Mr.Rajesh,
No.31-A,
Vyasarpadi, Chennai 600 039.

+1cc to Mr.P.R.Dhilipkumar, Advocate SR.No.48371

W.A.No.675 of 2013

AD(CO)
GMY(19/07/2019)

WEB COPY