

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P. 16708 of 2009

and

M.P. 1 of 2009

1. M/s.Poly Bags and Printers,
(Under Dissolution),
No.C-12, Industrial Estate,
Thattanchavadi,
Pondicherry-605 009.
represented by its Ex-Partner
Mr.T.Hajee Mohamed

2. M/s.Mohideen Packings,
a Partnership Firm,
No.C-12, Industrial Estate,
Thattanchavadi,
Pondicherry-605 009.
represented by its Managing
Partner Mr.T.E.A.Haleed

... Petitioners

Vs

1. The Union Government of
Pondicherry,
represented by its Chief
Secretary, Pondicherry.

2. The Superintending Engineer
Electricity Department,
Pondicherry.

3. The Junior Accounts Officer,
Revenue II,
Electricity Department,
Pondicherry.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating the order passed by the 2nd respondent dated 29.03.2006 in No.1279/ED/JAO/REV.II/B.S.IV/2006, and to quash the same and direct the respondents to transfer the Electricity Connections (connections policy

Nos.35528/C1, No.24679/A1) at No.C-12, Industrial Estate, Thattanchavadi, Pondicherry in the name of the 2nd petitioner.

For Petitioner : Mr.Raja Kalifulla, Sr. Adv.
For Mr.J.Jeyandrakrishnan

For Respondents : Ms.N.Mala,
Addl. Govt. Pleader

O R D E R

This Writ Petition has been filed challenging the impugned order of the 2nd respondent dated 29.03.2006 and quash the same and consequently direct the respondents to transfer the Electricity Connections at No.C-12, Industrial Estate, Thattanchavadi, Pondicherry in the name of 2nd petitioner.

2. The case of the petitioner is that the plot bearing No.C-12 was allotted in favour of the 1st petitioner, who engaged in production of Poly Bags and the respondents gave electricity connection in the name of the 1st petitioner. The 1st petitioner firm had problems in running and hence, it was closed down from time to time. During the year 2003, the partners of the above said firm have dissolved the 1st petitioner firm and the entire business was taken over by the 2nd petitioner firm. Thereafter, after formation of the firm and acquiring the business of 1st petitioner, the 2nd petitioner firm made an application to the respondents seeking to transfer the electricity connection in favour of 2nd petitioner. But, the respondents did not transfer the connection alleging that there was arrears. The petitioner has further averred that the 3rd respondent had issued a hand written notice dated 02.04.2004, thereby claiming a sum of Rs.16,34,929/- as arrears payment stating that there was a clerical error has occurred while noting the meter reading. On enquiry, the respondents attempted to contend that instead of noting six digits, the staff noted only 5 digits and it came to light only during December 2003, and there was an error in calculation in the arrears of impugned demand, thereby the present impugned order is passed. In order to avoid the threat of disconnection, the 1st petitioner filed a suit in O.S.No.671 of 2005 on the file of III Addl. District Munsif Court, Pondicherry seeking permanent injunction restraining them from attempting to disconnect the electricity connection. Even then, there was a threat of disconnection. Hence, the petitioner has filed the present Writ Petition.

3. Mr.Raja Kalifulla, learned senior counsel appearing for the petitioner would submit that though the respondents Board collected the consumption charges upto August, 2003, thereafter, they demanded huge amount retrospectively from November 2002 to February 2004 without verifying any details and the impugned

demand order did not disclose either any of the particulars or any provision of law for demanding the arrears of amount is unsustainable one. In fact, the petitioner has regularly paid the consumption charges upto the year 2008. Thereafter, the said industry was closed and at present, the said industry is not functioning in the said alleged area. Even as per the provision, if the respondents Board demanding the amount after lapse of six months is unsustainable one. Accordingly, he prayed to allow this Writ Petition.

4. Mrs.N.Mala, learned Addl. Government Pleader appearing for respondents Board, on instructions, would submit that there was a clerical error in calculation of arrears of amount in the impugned notice. Hence, this Court may remand the matter back for fresh consideration. Further, the respondents will follow the procedures contemplated under law and will intimate the category, in which the demand was made.

5. Considering the limited request made by the learned Addl. Government Pleader, without going into the merits of the case, I am inclined to remand the matter back to the respondents and the respondents are directed to issue show cause notice stating that in which category, they have demanded the arrears of amount and thereafter, pass appropriate orders in accordance with law. Accordingly, the impugned order passed by the 2nd respondent dated 29.03.2006 in No.1279/ED/JAO/REV.II/ B.S.IV/2006 is set aside and the present Writ Petition stands allowed with the above terms. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Secretary,
Union Government of
Pondicherry,
Pondicherry.
2. The Superintending Engineer
Electricity Department,
Pondicherry.

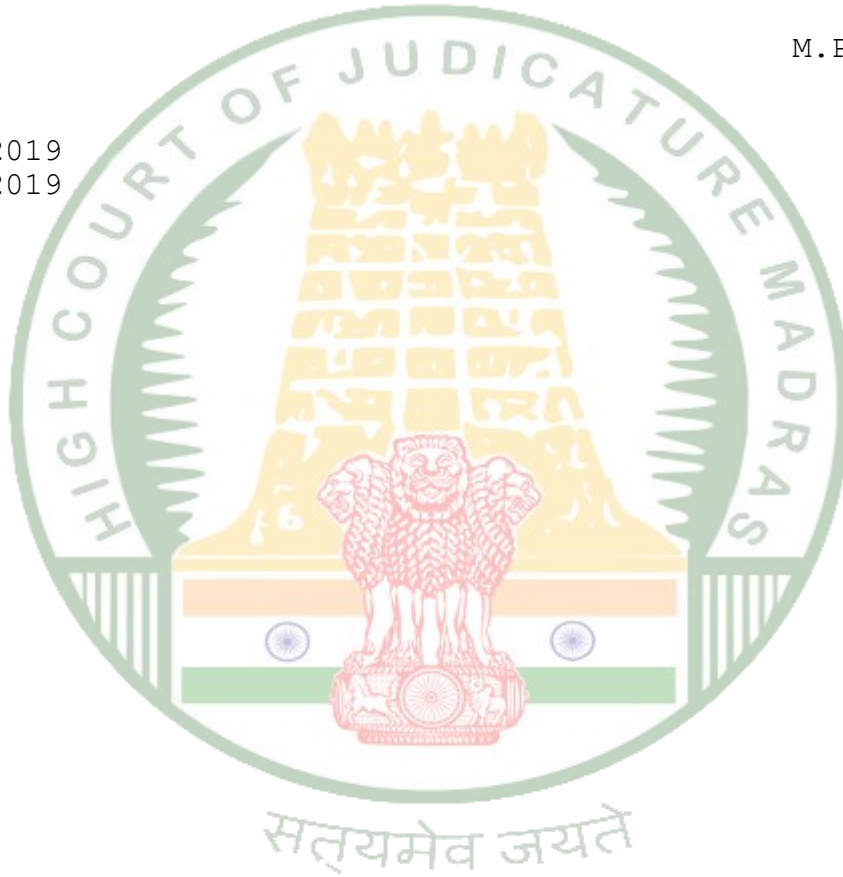
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3. The Junior Accounts Officer,
Revenue II,
Electricity Department,
Pondicherry.

+lcc to Government Pleader-Cum Public Prosecutor(Pondicherry)
sr.65548

W.P. 16708 of 2009
and
M.P. 1 of 2009

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nr 14/10/2019



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