

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.18102 of 2009

Assirudin
S/o Mohammed

.. Petitioner

-vs-

1. The Executive Engineer (O & M)
Tamil Nadu Electricity Board
Egmore, Chennai 600 008

2. The Assistant Engineer (O & M)
Tamil Nadu Electricity Board
Pulianthope, Chennai 600 012

.. Respondents

Prayer: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, forbearing the respondents herein from collecting the current consumption charges of Rs.13,31,910.00 standing due in 147-25-82 as per the orders in EE/O&M/EGM/ATO/AS VA No.147-25-82/D 1955 dated 28.4.09 from and through the petitioner's service connection 147-25-03.

For Petitioner :: Mr.R.Selvakumar

For Respondents :: Mr.P.R.Dhilip Kumar
Standing Counsel

ORDER

The writ petition has been filed seeking to issue a mandamus, forbearing the respondents herein from collecting the current consumption charges of Rs.13,31,910/- standing due in 147-025-82 as per the orders in EE/O&M/EGM/ATO/AS VA No.147-25-82/D1955 dated 28.4.2009 from and through the petitioner's service connection 147-025-03.

2. Learned counsel for the petitioner submitted that the petitioner is running the business of manufacturing and supplying ice for various dealers at No.1/1, Brighton Road, Pulianthope, Chennai and he is having the electricity service connection No.147-025-03 in the business premises. The tariff of the said service connection falls in III B i.e. meant for

Industrial and Commercial Services and has been granted a power of 40 HP. With this 40 HP Service Connection, he has been running his business smoothly by paying all the dues as demanded by the second respondent as per the white card reading.

3. The learned counsel for the petitioner further submitted that while so, the petitioner was directed to pay a sum of Rs.1,02,015/- towards the consumption charges as per the meter reading dated 26.2.2009, which was also paid on 16.3.2009. The next reading was taken by the subordinates of second respondent on 30.4.2009 and they have also noted a sum of Rs.1,63,944/-. Accordingly, when the petitioner went to pay the said sum of Rs.1,63,944/- to the second respondent on 15.5.2009, after receiving the white card, the second respondent entered the proceedings impugned herein and asked the petitioner to pay an additional sum of Rs.13,31,910/-. All of a sudden, the petitioner has been called upon to pay the said additional sum of Rs.13,31,910/- immediately.

4. The learned counsel for the petitioner also submitted that after perusing the entry made in the white card, it has been found that there has been a reference to the Service Connection No.147-025-82. Therefore, the petitioner made an enquiry about the said service connection. Of course, the said service connection belongs to one Mr.S.Suresh, who was running business at No.1/3 Brightons Road, Pulianthope, Chennai. When the petitioner questioned the relevance or connection between the said service connection with his service connection, the second respondent refused to give any reason or justification, but compelled him to pay the huge sum of Rs.13,31,910/-. When the petitioner is liable to pay the consumption charges only on the basis of the white card reading in respect of electricity service connection No.147-025-03 alone, the second respondent cannot compel the petitioner to pay the electricity consumption charges in respect of another service connection No.147-025-82, when he is not using the service connection No.147-025-82. Therefore, a representation dated 20.5.2009 has been given by the petitioner questioning the propriety for demanding the charges due by a third party stranger, but no action has been taken so far. Hence, the petitioner has approached this Court by way of filing the present writ petition.

5. Concluding his arguments, the learned counsel for the petitioner submitted that when the service connection No.147-025-82 is no way connected to the petitioner and the petitioner is also running his business at No.1/1, Brighton Road, Pulianthope, Chennai with the service connection No.147-025-03, the amount shown in the white card issued in respect of service connection No.147-025-03 alone can be collected from the petitioner, he pleaded.

6. A counter affidavit has been filed by the second respondent. It is stated that the petitioner had a service connection No.147-025-03 under the Industrial Tariff IIIB, which was enjoyed by one Mr.S.Suresh, Proprietor of M/s Venkateswara Ice Factory. On 17.11.2004, the said service connection was inspected by the Anti Theft Power Squad and during their inspection, it was found that the meter was under direct tampering without incoming wire to the main meter and thus they committed theft of energy and the extra levy for theft of energy was worked out to a tune of Rs.6,26,464/-. Since the said amount was not paid, the service connection was disconnected. When Mr.S.Suresh has not even come forward to pay the assessed amount, a police complaint was also registered in C.R.No.1254 of 2004. Questioning the same, Mr.S.Suresh filed W.P.No.1831 of 2005 praying for restoration of service connection and the said writ petition was disposed of giving a direction to deposit two months installment with a further direction to the Board to dispose of the appeal within February, 2005 by the order dated 25.1.2005. However, the appeal was also dismissed because of the payment of two months installment. Again the said Mr.S.Suresh filed another W.P.No.8525 of 2005 and an interim order was passed to deposit 50% of the impugned demand. But when the matter was taken up subsequently, it was represented by the counsel for Mr.Suresh that the writ petition became infructuous and the same was dismissed by order dated 20.2.2012. Now the service connection No.147-025-82 stands in the name of Mr.S.Suresh under the Industrial Tariff IIIB. But the same was utilised for M/s Venkateswara Ice Factory situated at No.1/3, Brightons Road, Pulianthope, Chennai. Therefore, when Mr.S.Suresh has committed theft of energy to the tune of Rs.6,26,464/-, the theft committed in service connection No.147-025-82 was included in service connection No.147-025-03. Moreover, the entire premises were also numbered as Door No.1 and the Door No.1/1 and No.1/2 were sub divided among the occupants by themselves, as a result the respondents were unable to track the property details of the premises. Hence, the respondents disconnected the service connection Nos.147-025-82 and 147-025-03 and the meters were also removed several years back due to non-payment of assessed demand charges for theft of energy. Now the premises are also lying vacant, because there is no business taking place as on date. Hence, the writ petition is liable to be dismissed.

7. Heard learned counsel for the parties.

8. It is the admitted case of both sides that the petitioner was given electricity service connection No.147-025-03 in the name of Mr.Assirudin. There is one another service connection No.147-025-82 given to Mr.S.Suresh. When two separate electricity service connections, namely, Nos.147-025-03 and 147-

025-82 were given in the names of two persons i.e., Mr.Assirudin and Mr.S.Suresh, if any tampering has been noticed in respect of service connection No.147-025-82, action should be taken only against Mr.S.Suresh, for the reason that the door number of the petitioner being No.1/1, differs from Door No.1/2, which is occupied by Mr.S.Suresh. When the electricity service connection No.147-025-03 given to the petitioner is different, as he is separately occupying the premises in Door No.1/1, Brightons Road, Pulianthope, Chennai, whatever irregularity or interference or even theft of energy is allegedly found against Mr.S.Suresh, his service connection alone is liable to be disconnected. Without resorting to such lawful step, the respondents cannot compel the petitioner, who has been given a separate service connection No.147-025-03, to pay the penalty for the fault committed by one Mr.S.Suresh. It is also stated by the learned standing counsel for the respondents that the premises of the petitioner is closed as on date. Therefore, the writ petition stands allowed as prayed for. However, if the petitioner makes any application for restoration of electricity service connection, the respondents shall consider the same and do the needful within a period of 30 days, as contemplated under Section 43(1) of the Electricity Act, 2003. Consequently, M.P.No.1 of 2009 is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Executive Engineer (O & M)
Tamil Nadu Electricity Board
Egmore, Chennai 600 008

2. The Assistant Engineer (O & M)
Tamil Nadu Electricity Board
Pulianthope, Chennai 600 012

+1 cc to Mr.R.Selvakumar, Advocate, S.R.No.31764

+1 cc to Mr.P.R.Dhilipkumar, Advocate, S.R.No.32217

W.P.No.18102 of 2009

SSV(CO)
SSM(28/05/2019)