

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2019

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.1888 & 1889 of 2013

Murugappa Morgan Thermal
Ceramics Limited (MMTCL), HT SC No.1084,
Represented by its Business Head
Mr.Rajiv Narayanmoorthy
Regd. Office at Dare House Complex,
New No.2, NSC Bose Road,
Chennai - 600 001.Petitioner in both W.Ps.

-vs-

1. The Chief Engineer/Commercial,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Technical Branch,
144, Anna Salai, Chennai - 600 002.
2. The Chief Engineer (Distribution),
Office of the Chief Engineer (Distribution), Vellore,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO), Vellore.
3. The Superintending Engineer,
Vellore Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO), Vellore.
4. The Executive Engineer,
Ranipet Division, Vellore Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Vellore. Respondents in both W.Ps.

PRAYER in W.P.No.1888 of 2013: Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent culminating in his impugned proceedings bearing

Lr.No.185/SEV/GI/AE-1/DM/F.HTSC1084/2013/ dated 09.01.2013, quash the same and forbear the respondents from in any manner demanding any further amounts for the separate/dedicated feeder provided for the petitioner for their HT SC No.1084, being fed by the 11 KV MMTCL feeder from 110/11KV SIPCOT Sub Station, or interfering with the separate/dedicated feeder status accorded to the petitioner.

PRAYER in W.P.No.1889 of 2013 : Petition under Article 226 of the Constitution of India praying for issuance of Writ of Declaration, declaring that Memo No.CE/Comml/EE/R&C/AEE/F. Power Cut/ D.NO.325/12 dated 03.07.2012 issued by the 1st respondent will have no application for consumers like the petitioner who have obtained the separate/dedicated feeder after making the entire payment under DCW (Deposit Contribution Works) as per the estimate provided by the respondents, before the date of issuance of the said memo.

For Petitioner : Mr.N.L.Rajan
[in both W.Ps.] Senior counsel for Mr.Arun Anbumani

For Respondents : Mr.M.Varun Kumar
[in both W.Ps.] Standing Counsel

ORDER

Heard Mr.N.L.Rajah, learned Senior counsel assisted by Mr.Arun Anbumani, learned counsel for petitioner and Mr.M.Varun Kumar, learned Standing Counsel for the respondents.

2. With consent of learned counsel on either side, the writ petition itself is taken up for final disposal.

3. The petitioner company is aggrieved by the communication sent by the 3rd respondent dated 09.01.2013 which states that as per the order of TANGEDCO to exempt the 11KV MMTCL dedicated feeder from the purview of load shedding for power purchase, the petitioner should make a confirmation to pay the difference in the estimated cost, as the estimate has been prepared as per the present cost data and such confirmation should be given within 15 days from the date of receipt of notice, failing which, load shedding in 11KV MMTCL feeder feeding the petitioner industry fed from 110/11KV Sipcot sub station.

4. The impugned communication is not happily worded but nevertheless, from the counter affidavit, it is seen that as to what the respondent actually mean was that the cost has to be

collected from the consumer from the maintenance charges.

5. The learned Senior counsel appearing for the petitioner would contend that no such demand can be raised on the petitioner, more particularly, in the light of the conditions contained in the letter dated 09.12.1996 of the 3rd respondent. Therefore, the petitioner has filed the second writ petition for a writ of declaration to declare that the memo dated 03.07.2012 would have no application for consumers like the petitioner. In fact this prayer has been sought for because there is reference to the memo dated 03.07.2012 in the impugned communication dated 09.01.2013. The 3rd respondent has not traced his power to any provision of the statute or regulation or terms and conditions of supply of electricity or in the agreement, which was signed by the petitioner, when the dedicated feeder line was installed. Further, it has to be noted that in terms of para 5 of the letter dated 09.12.1996, the Board has stated that they will maintain the entire service line at its cost. If such is the communication sent to the petitioner, the question would be as to how the 3rd respondent could have issued the impugned communication dated 09.01.2013. As noted earlier, the impugned communication is not happily worded, it does not refer to any power under any statute or regulation except for the fact it cites in the reference the memo dated 03.07.2012.

6. The petitioner's specific case is that the said memo has no application to the case of the petitioner. Since the petitioner has obtained the dedicated feeder after making entire payment as per the estimate provided by the respondents themselves, the said memo dated 03.07.2012 would be applicable only for those HT consumers, who are seeking fresh facility from whom amounts towards dedicated feeder lines have not been collected so far.

7. Therefore, it is submitted that the memo cannot be applied to the petitioner's case.

8. In my considered view, it would be premature for this Court to take a decision as to the effect of the memo dated 03.07.2012 on the petitioner's case because the 3rd respondent himself while passing the impugned order dated 09.01.2013 has not clearly stated as to how the memo would be applicable to the petitioner except the said memo is cited in the reference column.

9. Thus, this Court is of the view that the impugned communication dated 09.01.2013 is bereft of particulars and absolutely vague.

10. For the above reasons, W.P.1888 of 2013 is allowed and the impugned communication dated 09.01.2013 is set aside, leaving it open to the 3rd respondent to issue fresh proceedings, if so advised, in accordance with law and bear in mind the observations made in this order.

In the light of the observations contained in the preceding paragraphs, W.P.No.1889 of 2013 is closed as there is no necessity at this juncture to consider the effect of the memo dated 03.07.2012 on the petitioner's case. However, if a need arises at a later point of time, it will be open to the petitioner to re-agitate the contentions raised in this writ petition. Hence, the writ petition in W.P.No. 1889 of 2019 is closed.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

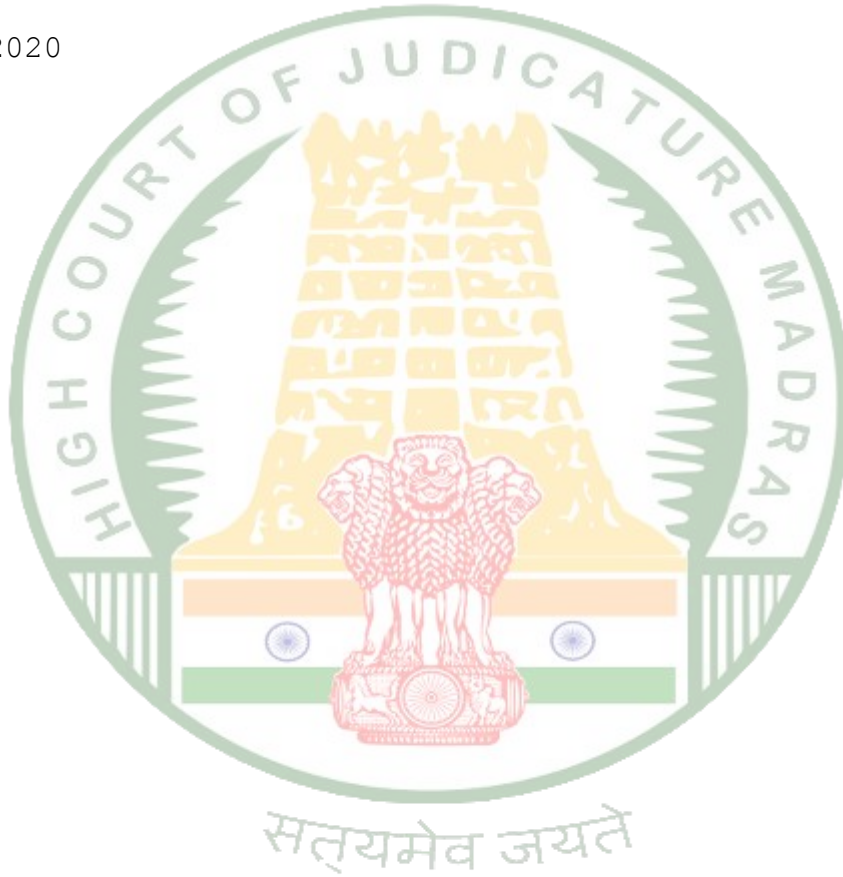
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+lcc to Mr.M.Varun Kumar, Advocate sr.104593

W.P.Nos.1888 & 1889 of 2013

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