

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.6160 of 2010

And

M.P.No.1 of 2010

1.K.Jaya Kumar
2.K.Ahok Kumar
3.K.Pradeep Kumar
4.K.Prem Kumar
5.K.Suresh Kumar
6.K.Anand Kumar
7.Mrs.K.Amsa
8.Mrs.Shanthi

... Petitioners

Vs.

The Superintendent Engineer,
C.E.D.C / South,
110, SS Complex,
K.K.Nagar, Chennai - 600 078.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondent relating to the impugned notice of the respondent No.SC / CEDC / S / EE / G1 / AE / Dev / F / Doc / D337 / 2009 dated 09.12.2009 and to quash the same in so far as it relates to monthly minimum charges and demand of Completion Certificate.

For Petitioners: Mr.S.Sundaresan

For Respondent : Mr.S.K.Rameshwar

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O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records of the respondent relating to the impugned notice of the respondent No.SC / CEDC / S / EE / G1 / AE / Dev / F / Doc / D337 / 2009, dated 09.12.2009 and to quash the same in so far as it relates to monthly minimum charges and demand of Completion Certificate.

2.The case of the petitioners is that they are co-owners of the property situated at T.S.No.5/28, 5/29Pt, 4/93, 4/94Pt, 4/96, 4/99 in Block No.45, Puliur Village, Dr.Ambedkar Road, Kodambakkam, Chennai - 600 024. The petitioners applied for planning permission to construct a multi storied commercial building and the same was approved by the CMDA. After completion of the said building, the petitioners applied for supply of HT service connection on 07.09.2009 to the respondent. The respondent also issued a communication asking the petitioners to remit a sum of Rs.4,00,500/- to register their application and also for EMD. The petitioners also paid the amount and registered their application.

3.It is the further case of the petitioners that the respondent thereafter sent a communication dated 25.09.2009 calling upon the petitioners to pay various charges amounting to Rs.4,56,280/-. The petitioners also paid the said amount. Thereafter, the respondent sent the availability notice on 09.12.2009, by which, the petitioners were requested to avail supply within three months from 09.12.2009 and that minimum monthly charges will be levied from 09.12.2009 till the date of availing supply and the respondent board further directed the petitioners to produce the completion certificate and safety certificate.

4.It is the further case of the petitioners that the petitioners requested for time to produce the said certificates, however, the respondent sent notice on 06.03.2010 demanding a sum of Rs.9 Lakhs towards monthly minimum charges and further informed the petitioners that their application will be treated as cancelled if the amount is not paid. Aggrieved by the same, the petitioners have come forward with this petition.

5.The learned counsel appearing for the petitioners would submit that the petitioners completed construction, however, for non production of completion certificate and safety certificate, the respondent issued notice on 06.03.2010 demanding a sum of Rs.9 Lakhs towards monthly minimum charges, which is unsustainable. Accordingly, he prayed for allowing the writ petition.

6.Per contra, the learned counsel appearing for the respondent would submit that as per Clause 31(5) of the Tamil Nadu Electricity Distribution Code, if the intending consumer avail supply during the notice period of availability of supply, he shall pay the monthly minimum charges at the notified tariff rate for the period from the date of issue of first notice of supply availability till the date of availing supply. He would further submit that the said Clause has been categorically stated in the agreement entered into between the petitioners and

the respondent Board. Accordingly, the respondent demanded the amount from the petitioners towards monthly minimum charges and would further submit that already the petitioners have deposited 50% of the amount. Accordingly, he prayed for dismissal of the writ petition.

7. Heard the learned counsel appearing on either side and perused the materials available on record.

8. On perusal of the records, it seems that the petitioners have made application for HT service connection on 07.09.2009 to the respondent. The respondent also issued a communication asking the petitioners to remit a sum of Rs.4,00,500/- to register their application and also for EMD. The petitioners also paid the amount and registered their application. Thereafter, the respondent sent a communication dated 25.09.2009 calling upon the petitioners to pay various charges amounting to a sum of Rs.4,56,280/-. The petitioners also paid the said amount. Thereafter, the respondent sent the availability notice on 09.12.2009, however, the supply was not effected for non production of completion certificate from the CMDA and safety certificate from the Chief Electrical Engineer. However, the respondent board demanded the monthly minimum charges.

9. Perusal of Clause 31(5) of the Tamil Nadu Electricity Distribution Code disclose that if the intending consumer avail supply during the notice period of availability of supply, he shall pay the monthly minimum charges at the notified tariff rate for the period from the date of issue of first notice of supply availability till the date of availing supply.

10. As per Clause 8 of the agreement entered into between the petitioners and the respondent Board, the petitioners have agreed to pay the monthly minimum charges every month as prescribed in the tariff and supply code even if no electricity is consumed for any reasons whatsoever. Thus a combined reading of Clauses 2, 6 and 8 makes it abundantly clear that from the date of agreement has come into force, the petitioners are bound to pay the monthly minimum charges.

11. In the present case, the first availability notice was issued on 09.12.2009. Hence, the petitioners have to necessarily pay the monthly minimum charges from 09.12.2009.

12. In view of the above, I do not find any merits in the writ petition. The writ petition is accordingly dismissed. However, liberty is granted to the petitioners to pay the balance amount without any BPSC or penal interest within a period of eight weeks from the date of receipt of a copy of this order.

13.The writ petition is dismissed. No costs.
Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CCC)

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Sub Assistant Registrar

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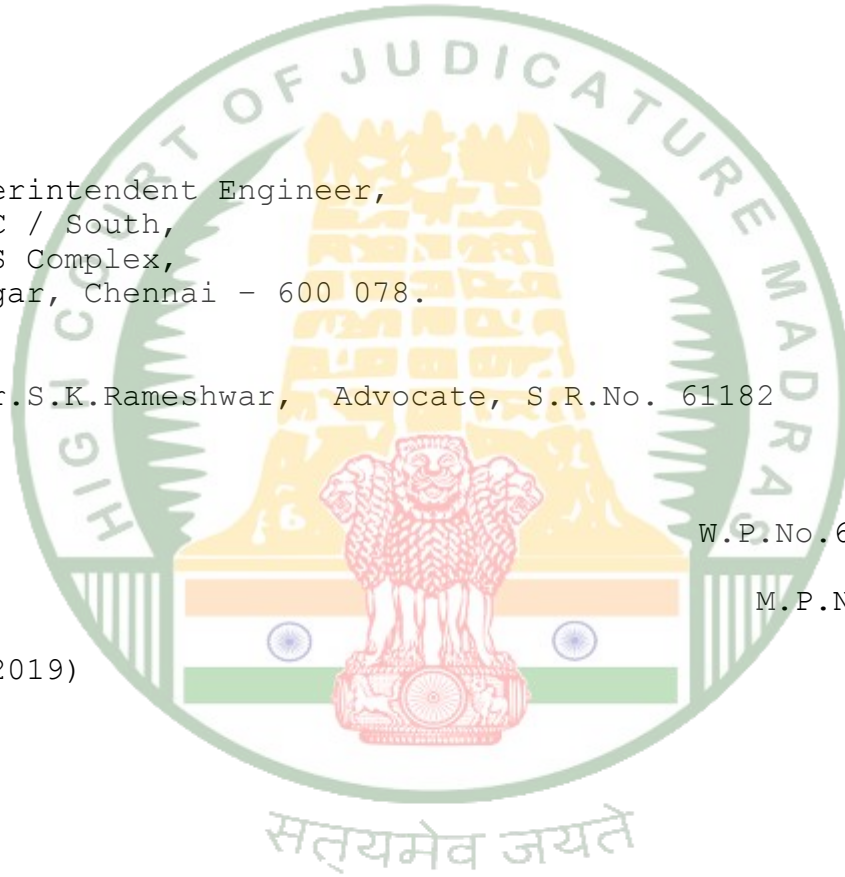
To

1.The Superintendent Engineer,
C.E.D.C / South,
110, SS Complex,
K.K.Nagar, Chennai - 600 078.

+1cc to Mr.S.K.Rameshwar, Advocate, S.R.No. 61182

W.P.No.6160 of 2010
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EV (CO)
GN(22/08/2019)



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