

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.21558 of 2013

E.Mani (Royal)

P1 deceased

P2 M.Kuttiyammal

... Petitioner

(P2 substituted as LR of the deceased sole petitioner as per order dated 07.11.2019 made in W.M.P. No. 20057 of 2019 in W.P. No.21558 of 2013 by TRJ)

Vs

1. The Tamil Nadu Electricity Board,  
rep. by its Chairman,  
Anna Salai, Chennai.

2. The Executive Engineer,  
Operation and Maintenance,  
TNEB, Sankari.

3. The Junior Engineer,  
TNEB O & M,  
Pallipalayam East,  
Namakkal District.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to restore power connection to the petitioner's service line bearing SC No.612TFI at Taj Nagar, S.P.B.Colony Post, Palliapalayam, Namakkal.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondents : Mr.S.K.Raameshuwar,  
Standing Counsel

ORDER

The writ petition has been filed seeking a direction to the respondents to restore the power connection to the petitioner's service line bearing SC No.612TFI at Taj Nagar, S.P.B.Colony Post, Palliapalayam, Namakkal.

2.Learned counsel appearing for the petitioner would submit that since P1 E.Mani died during the pendency of the writ petition, his legal heir has been brought on record. He would further submit that P1 became the Managing Director of Sri Arthanareeswara Paper and Boards Pvt. Ltd., a registered company incorporated under the Companies Act during 1998 and the said Company had obtained power connection from the respondents vide service connection No.SC503/IIIB at Door No.551/A, Sankari Main Road, Veppadai for its industrial activities. Initially, the respondents wrongly accorded power connection to the said company in the name of P1 and the same has been corrected and transferred in the name of Managing Director of M/s.Arthanareeswara Papers and Board Pvt. Ltd. vide Proceedings dated 01.10.1997. Thereafter, the second respondent initiated proceedings against the company for violating the terms and conditions of supply by unauthorised load to the extent of 21.0 HP against the sanctioned load of 150 HP + 8 K.W. and directed the company to pay a sum of Rs.2,37,950/- as penalty. In the meanwhile, the third respondent herein issued a letter dated 08.07.2010 stating that service connection, standing in the name of P1, accorded to his residence situated at Taj Nagar, shall be disconnected, if the said sum standing as outstanding against the said company was not paid by him. Thereafter, the Company had challenged the levy of Rs.2,37,950/- in O.S. No.124 of 2004 before the learned Additional District Munsif, Thiruchengode and the same was dismissed and as against the same, a restoration application was filed and the same is pending. In the meanwhile, the petitioner's power connection has been disconnected from 18.08.2010 to his residence.

3.Learned counsel appearing for the petitioner contended that the respondents cannot disconnect the supply of the residence of the petitioner for the alleged outstanding against the company and cannot proceed against the petitioner for the amounts due against the company. In view of the same, the company has become defunct since 1999. According to the learned counsel appearing for the petitioner, even Clause 17(8) of the Tamil Nadu Electricity Supply 2004 cannot be put against the petitioner as pleaded by the learned counsel for the respondents. Taking support from the order dated 16.03.1998 made in S.A. No.1542 of 1984 reported in 1998 (1) CTC 586 in the case of B.C.Munirathinam Naidu vs. Chengalpattu Electricity System, learned counsel for the petitioner would submit that in identical circumstances, this Court has held that where a firm of which a person who was the managing partner entered into service contract with the Electricity Board and the Board recognised the firm as the consumer and it committed default and fell into arrears, the Bench of the Andhra Pradesh High Court held that to recover those arrears and that the Board could not disconnect private and personal service connection of the said

person. Therefore, learned counsel for the petitioner pleaded that electricity service connection of the petitioner's residence could be restored.

4.A detailed counter affidavit has been filed by the third respondent. Mr.S.K.Raameshuwar, learned Standing Counsel appearing for respondents 1 to 3 would submit that both the petitioner's service connection of the company and the residence in the beginning were one and the same and subsequently, it was transferred. Therefore, taking note of the fact that at the time of getting service connection to both the petitioner's company and the residence, the petitioner's company has committed willful default for an amount of Rs.2,37,950/- without complying clause 17(8) of the Tamil Nadu Electricity Supply Act 2004 which clearly says that where any consumer has more than one service connection, if he defaults in the payment of dues relating to any one of the service connections, the licensee may cause other service connections in the name of the consumer to be disconnected on issuing proper notice till all the arrears due for all the service connections are paid, action has been taken against the petitioner and therefore, no fault can be found from the respondents.

5.Although the respondents have taken a stand in para 7 of the counter affidavit that the original writ petitioner has signed in the original application while applying new industrial service connection to Arthanariswara Paper Board and he was a director of the above firm and the said E.Mani was a partner and he was a sole representative from the date of application to till date, the respondents have taken action against the service connection of the petitioner's residence. It may be mentioned herein that from the date of giving service connection, the names of the service connection to the petitioner's company and the residence are different. Therefore, the disconnection effected to the petitioner's residence is wholly unwarranted and unacceptable.

6.This Court, while considering the similar and identical issue, has held in para 7 of the order dated 16.03.1998 made in S.A. No.1542 of 1984 as under:

'7. .. In identical circumstances, where a firm of which a person who was the managing partner entered into service contract with the Electricity Board and the Board recognised the firm as the consumer and it committed default and fell into arrears, the Bench of the Andhra Pradesh High Court held that to recover those arrears, the Board could not disconnect private and personal service connection of the said person under condition 6.14 which was identical to condition

No.40(c) relied on by the Department in the present case. The Bench held that even though the individual was a partner of the firm the actual consumer was only the firm and not the individual and the individual was a consumer only in respect of his personal and private service connection and simply because he was a partner of the firm which was a consumer in relation to the other service, he could not be called consumer in respect of the service standing in the name of the firm. The Board had recognised the firm as a consumer and not any individual partner or the managing partner.'

7.In the light of the above, the writ petition stands allowed. Since the learned Standing Counsel appearing for respondents 1 to 3 would submit that there is no arrears so far as the petitioner's residential connection is concerned, the respondents are directed to restore the service connection within a period of one week from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,  
The Tamil Nadu Electricity Board,  
Anna Salai, Chennai.
2. The Executive Engineer,  
Operation and Maintenance,  
TNEB, Sankari.
3. The Junior Engineer,  
TNEB O & M, Pallipalayam East,  
Namakkal District.

+1cc to Mr.N.A.Nissar Ahmed, Advocate, S.R.No.97724  
+1cc to Mr.S.K.Raameshuwar,, Advocate, S.R.No.97492

W.P.No.21558 of 2013

RK(CO)  
CS/08/01/2020