



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.2181 of 2013

and

M.P. No.1 of 2013

T.Jeyachandra

... Petitioner

Vs.

The Assistant Engineer,
O&M, Grandline,
CEDC/WEST,
TANGEDCO,
Chennai - 600 052.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned memo issued by the respondent in Letter No.AE/O&M/GLN/F.AUDIT/D006/13 dated 11.01.2013 and quash the same as illegal.

For Petitioner : Mr.A.E.Ravui Chandran

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

O R D E R

The writ petition has been filed by Mrs.T.Jeyachandra, W/o. Late V.Thachinamoorthy, assailing the impugned memo, issued by the Assistant Engineer, O&M, Grandline, TANGEDCO, Chennai, in Letter No.AE/O&M/GLN/F.AUDIT/D006/13 dated 11.01.2013 and to quash the same as illegal and to pass further orders.

2.Learned counsel appearing for the petitioner argued that the respondent has given an electricity service connection in SC No.454-005-215 in the name of the petitioner. The petitioner has been regularly paying the electricity charges in respect of the said service connection without any due or arrears. While so, the respondent herein, issued the impugned memo dated 11.01.2013, informing the petitioner that she was one of the



owners of the electricity service connection in SC No.619 in Pichanur Distribution, under the Coimbatore Electricity Distribution Circle, given in the name of M/s.Siva Shanmuga Sabari Chemicals Private Limited and the said service connection was disconnected on 04.05.1996 due to non-payment of current consumption charges and the accounts of SC No.619 have been closed and a sum of Rs.73,553/- is outstanding against the said service connection after adjustment of Deposit. In the said impugned memo, it has been further mentioned that, notice for termination of agreement in respect of SC No.619 was served on 04.08.1996 and notices under Sections 3(1) and 4 of the Electricity Act, 2003, were also issued under the Revenue Recovery and Recovery of Dues Act and therefore, as per Regulation 17 of the Tamil Nadu Electricity Supply Code, the petitioner is liable to pay the arrears amount of Rs.73,553/- and hence, the respondent would include the same in the present service connection, i.e. SC No.454-005-215 in Grandline, TANGEDCO, Chennai, in the next billing.

3.The learned counsel further contended that the petitioner's husband Late V.Thachinamoorthy was only one of the partners of the said M/s.Siva Shanmuga Sabari Chemicals Private Limited and the said company also became defunct long back and thereafter, the details or status of the said company were not informed to the petitioner and the petitioner's husband died on 08.02.2008. Therefore, there was no occasion for the said company to get electricity service connection in the name of the petitioner. The learned counsel further contended that, while the impugned memo indicates that the petitioner is one of the owners of SC No.619 and the entire outstanding arrears of Rs.73,553/- is now attempted to be included in the present SC No.454-005-215 after a lapse of 16 years, when the petitioner contacted the respondent on 24.01.2013 and requested to give the details of recovery, the respondent refused to give any particulars and informed the petitioner that the entire outstanding amount of Rs.73,553/- would be included in the next billing in respect of the present service connection. Hence, for all the above reasons, the impugned memo is liable to be set aside.

4.A short counter affidavit has been filed by the respondent. In the counter affidavit, the respondent has wrongly referred to Clause 17(8) of the Tamil Nadu Electricity Supply Code, 2004. Mr.P.R.Dhilip Kumar, learned Standing Counsel, appearing for the respondent submitted that, Service Connection No.619, Rangasamuthiram, Pichanur, Coimbatore, was given to M/s.Siva Shanmuga Sabari Chemicals Private Limited, in the year 1990, which was managed by its three partners,



namely, (1) K.Sathu (2) V.Dhakshinamoorthy and (3) S.Kannan, having its head office at C-74, T.V.Nagar, Ambattur, Chennai. The current consumption charges pending from the year 1992 were not cleared and the company also became defunct and came under the custody of Superintendent of Police (Prohibition), Coimbatore, from the year 1993. All the co-owners of the company escaped and no information was available and hence, they could not be traced out. Therefore, the electricity service connection was disconnected in the year 1996 and six months termination notice was issued, but, due to non-availability of the owners, it was pasted on the wall of the premises in the year 1996 and subsequently, Bank took over the property and the property was sold in public auction. For the reason that the present owner of the property could not be traced out, the original owners were traced and it was found that Mrs.D.Jeyachandra, the petitioner herein, is the wife of V.Dhakshinamoorthy, who was one of the partners of the company. Thereafter, based on the letter given by the Superintending Engineer, Coimbatore, to the Superintending Engineer, Chennai Electricity Distribution Circle (West), Chennai, a notice was given to Tmt.D.Jeyachandra, W/o. V.Dhakshinamoorthy, to pay the pending arrears in respect of M/s.Siva Shanmuga Sabari Chemicals Service Connection No.619, under Clause 17(8) of Tamil Nadu Electricity Supply Code, 2004. However, without paying the money, the petitioner has approached this Court. Therefore, the impugned memo, issued by the respondent, is legal and the same cannot be set aside.

5.Heard the learned counsel on either side.

6.When it is the claim of the respondent that the petitioner is also one of the Directors of M/s.Siva Shanmuga Sabari Chemicals Private Limited, nowhere, either in the impugned demand memo or in the counter affidavit filed by the respondent, the respondent has indicated that the petitioner is one of the Directors of M/s.Siva Shanmuga Sabari Chemicals Private Limited. When it is stated that the petitioner's husband Late V.Thachinamoorthy died on 08.02.2008, it is not known as to how the respondent can claim payment of arrears from the petitioner in respect of the service connection given in the name of M/s.Siva Shanmuga Sabari Chemicals Private Limited, after a lapse of 16 long years. When the respondent, in the counter affidavit, took a stand that the petitioner is one of the Directors of the said M/s.Siva Shanmuga Sabari Chemicals Private Limited, it is not known as to why, after the service connection was disconnected in the year 1996, they kept quiet for about 23 years, when it is squarely barred by limitation. Secondly, it has been specifically averred by the petitioner in the affidavit



filed in support of this writ petition that, only the petitioner's husband was one of the partners of the defunct company, namely, M/s.Siva Shanmuga Sabari Chemicals Private Limited, which was managed by the following partners (1) K.Sathu (2) V.Dhakshinamoorthy and (3) S.Kannan. This has been admitted by the respondent in the counter affidavit in Para No.5, which is extracted as under :

"5.I further state that M/s.Shiva Shanmuga Sabari Chemicals Service Connection No.619, Rangasamuthiram, Pichanur, Coimbatore - 641 105 the Service Connection given in the year 1990 to M/s. Shiva Shanmuga Sabari Chemicals Pvt. Ltd. Company managed by three partners namely (1) K.Sathu (2) V.Dhakshinamoorthy and (3) S.Kannan, having its head office at C-74, T.V.Nagar, Ambattur, Chennai - 600 053."

When the respondent themselves have admitted the fact that the petitioner's husband, V.Dhakshinamoorthy, was only one of the partners of the company, without substantiating the contention that the company's Service Connection No.619 is also in the name of the petitioner, the benefit of Clause 17(8) of the Tamil Nadu Electricity Supply Code, 2004, will not inure to the respondent.

7.It is also relevant to extract Clause 17(8) of the Tamil Nadu Electricity Supply Code, 2004.

"(17)

[(8).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, notwithstanding the fact that the service connections are covered under separate agreements.]"

A reading of the same clearly shows that, only in the cases, where a consumer has more than one service connection and if he/she defaults in 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, notwithstanding the fact that the service connections are covered under separate agreements. When the service connection given to M/s.Siva Shanmuga Sabari Chemicals Private Limited was disconnected in the year 1996, the respondent should have proceeded against the partners of the company, viz., K.Sathu or V.Dhakshinamoorthy or S.Kannan.



However, they have not proceeded against the partners immediately. Now, after 16 long years, it is not open to the respondent to proceed against the petitioner, who is the wife of one of the partners of the company, V.Dhakshinamoorthy, who also died on 08.02.2008. Therefore, looking at the impugned memo from any angle, it is liable to be quashed.

8. For all the said reasons, this Court hardly finds any merit, either in the impugned memo or in the counter affidavit filed by the respondent. Therefore, I find no substance, whatsoever, in the impugned memo and the same is liable to be set aside and is accordingly set aside. In fine, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

The Assistant Engineer,
O&M, Grandline,
CEDC/WEST,
TANGEDCO,
Chennai - 600 052.

+1cc to Mr.P.R.Dhilipkumar, Advocate SR.No.85886

AKM/02.01.2020/6P-3C /

W.P. No.2181 of 2013