



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2019

WEB COPY

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.7103 of 2011
and
M.P.No.1 of 2011

Karan

...Petitioner

Versus

1.Tamil Nadu Electricity Board,
Rep., by its Chief Engineer,
No.144, Anna Salai,
Chennai-600 002.

2.The Assistant Engineer,
Tamil Nadu Electricity Board,
O&M/R.A.Puram,
CEDC/Chennai,
Chennai-600 028.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records of the Lr.No.AE/O&M/RAP/F.Doc/D.No.673/2010 dated 19.08.2010 issued by the second respondent and quash the same.

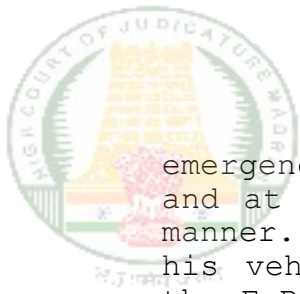
For Petitioner : Mr.S.Kanmani Annamalai
for M/s.K.Shahul Hameed

For Respondents : Mr.P.R.Dilipkumar

O R D E R

This writ petition has been filed seeking to quash the Lr.No.AE/O&M/RAP/F.Doc/D.No.673/2010 dated 19.08.2010 issued by the second respondent.

2.The petitioner's father owned a Honda City car bearing registration No.TN01-AC-0099. On 18.04.2010, when the petitioner was driving the car on the Durgabai Desmuk Road, R.A.Puram, Chennai, proceeding from South to North for an



emergency work, a lorry which came very speedily behind his car and at one point, the lorry overtake his car closely in a rash manner. The petitioner in order to avoid major accident, turned his vehicle to the left side and thereby hit the fencing over the E.B.Transformer located at Suder Building in Durgabai Desmuk Road, in which the transformer was damaged and the petitioner's car was also damaged. The said incident was brought to the knowledge of the jurisdictional police station and a case was registered under FIR.No.181/AM3/10 and charge sheet was laid as against the petitioner before the learned IV Metropolitan Magistrate, Saidapet for an offence under Section 279 IPC. The learned Magistrate, Saidapet convicted the petitioner and imposed fine. Thereafter, the 2nd respondent sent a notice to the petitioner to pay an amount of Rs.10,00,000/- towards the damage of the transformer. Though, the petitioner sent reply to the above notice, the 2nd respondent again by a communication dated 19.08.2010 demanded the petitioner to pay Rs.10,00,000/- towards damages with 15 days and further threatened that in case of failing to pay the said amount, the entire cost would be included in the current consumption charges of the petitioner's electricity service connection. The said notice is under challenge in this writ petition.

2.Heard Ms.S.Kanmani Annamalai, learned counsel for the petitioner and Mr.P.R.Dilipkumar, learned standing counsel for the respondent Board.

3.The learned counsel for the petitioner would submit that the vehicle involved in the accident is registered in the name of the petitioner's father and the impugned notice is sent to the driver of the vehicle/petitioner is an unsustainable one. He further submitted that the impugned notice demanding to pay a sum of Rs.10,00,000/- is very huge and also the impugned order does not contain any details. Therefore, he seeks to quash the impugned notice.

4.The learned counsel for the respondents submitted that though the vehicle is owned by the petitioner's father, the 2nd respondent has sent a notice to the driver of the vehicle, who caused damage to the transformer. Hence, the petitioner is liable to pay the compensation. Accordingly, he prays to dismiss the petition.

5.It is an admitted fact that the petitioner has driven the vehicle and had caused damage to the transformer. It is also an admitted fact that the vehicle stands in the name of the petitioner's father and he is the owner of the vehicle. However, the impugned notice is caused on the driver of the vehicle without any proper details. Hence, this Court is not convinced in the manner in which the 2nd respondent has issued the impugned order. Infact, the respondents have power to claim damages from



the owner of the vehicle before the appropriate forum. Without doing so, the impugned notice issued as against the petitioner is unsustainable. Therefore, I am inclined to set aside the impugned order passed by the second respondent.

6. Accordingly, this writ petition is allowed. The impugned notice in Lr.No.AE/O&M/RAP/F.Doc/D.No.673/2010 dated 19.08.2010 issued by the second respondent is hereby set aside. However, it is open for the respondents to issue fresh notice to the petitioner's father and liberty granted to the respondent for filing claim petition against the owner of the vehicle, with proper details. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Engineer,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai-600 002.

2.The Assistant Engineer,
Tamil Nadu Electricity Board,
O&M/R.A.Puram,
CEDC/Chennai,
Chennai-600 028.

+1cc to M/s.K.Shahul Hameed, Advocate, SR.67913

W.P. No.7103 of 2011
and M.P.No.1 of 2011

AD(CO)
CB(03/10/2019)